

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**Form S-1**

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

**TREE.COM, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**6163**  
(Primary Standard Industrial  
Classification Code Number)

**26-2414818**  
(I.R.S. Employer  
Identification No.)

**1115 Rushmore Drive**  
**Charlotte, NC 28277**  
**(704) 541-5351**  
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

**Scott Cammarn**  
**Senior Vice President and General Counsel**  
**Tree.com, Inc.**  
**1115 Rushmore Drive**  
**Charlotte, NC 28277**  
**(704) 541-5351**  
(Name, address, including zip code, and telephone number, including area code, of agent for service)

*With a copy to:*

**Pamela S. Seymon**  
**Wachtell, Lipton, Rosen & Katz**  
**51 West 52<sup>nd</sup> Street**  
**New York, NY 10019**  
**(212) 403-1000**

**Approximate date of commencement of proposed sale to the public:**  
As soon as practicable after this registration statement becomes effective.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

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   
(Do not check if a smaller reporting company)

**CALCULATION OF REGISTRATION FEE**

Title of Each Class of Securities to be Registered	Amount to be Registered(1)	Proposed Maximum Offering Price Per Unit	Proposed Maximum Aggregate Offering Price(2)	Amount of Registration Fee(3)
Common stock, par value \$0.01 per share	16,654,428 shares	N/A	\$244,545	\$9.61

(1) This registration statement relates to shares of common stock, par value \$0.01 per share, of Tree.com, Inc. (the "Registrant"), which will be distributed pursuant to a spin-off transaction to the holders of common stock and Class B common stock of IAC/InterActiveCorp ("IAC"). The amount of the Registrant's common stock to be registered represents the sum of (i) 9,302,842 shares of common stock to be distributed to the holders of IAC common stock and IAC Class B common stock upon consummation of the spin-off, (ii) up to 5,051,586 shares of common stock to be issued in respect of certain restricted stock units, or stock options, in each case, previously issued pursuant to IAC's equity incentive plans and that will be converted, in whole or in part, in connection with the spin-off into stock options and restricted stock units to be issued under the Tree.com, Inc. 2008 Stock and Annual Incentive Plan (the "Stock and Annual Incentive Plan"), (iii) up to 2,200,000 shares of common stock issuable in respect of stock options, restricted stock units and other equity-based awards that may be granted from time to time following the spin-off pursuant to the Stock and Annual Incentive Plan and (iv) up to 100,000 shares of common stock issuable pursuant to the Tree.com, Inc. Deferred Compensation Plan for Non-Employee Directors. To the extent additional shares of common stock may be issued or become issuable as a result of a stock split, stock dividend, or other distribution involving the common stock while this registration statement is in effect, this registration statement hereby is deemed to cover all such additional shares of common stock in accordance with Rule 416 under the Securities Act of 1933, as amended. In connection with the spin-off, one thirtieth of one share of the Registrant's common stock will be distributed for each share of IAC common stock or Class B common stock outstanding on the record date for the spin-off and each share of IAC common stock issued in connection with the exercise of IAC stock options and the settlement of IAC restricted stock units between the record date for the spin-off and the date of the spin-off. Because it is not possible to accurately state the number of shares of IAC common stock and Class B common stock that will be outstanding as of the spin-off date, this calculation is based on the number of shares of IAC common stock and IAC Class B common stock outstanding as of April 30, 2008, vested options to purchase shares of IAC common stock and IAC restricted units in respect of shares of IAC common stock as of December 31, 2008 that may settle prior to the date of the spin-off.

(2) Estimated solely for the purpose of determining the registration fee pursuant to Rule 457(f)(2) and Rule 457(h)(1) under the Securities Act, based on the book value of the common stock as of March 31, 2008, the most recent practicable date.

(3) Calculated by multiplying 0.00003930 by the proposed maximum aggregate offering price.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to Section 8(a), may determine.

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## EXPLANATORY NOTE

This Registration Statement has been prepared on a prospective basis on the assumption that, among other things, the spin-off of the Registrant from IAC/InterActiveCorp (as described in the Prospectus which is a part of this Registration Statement) and the related transactions contemplated to occur prior to or contemporaneously with the spin-off will be consummated as contemplated by the Prospectus. There can be no assurance, however, that any or all of such transactions will occur or will occur as so contemplated. Any significant modifications to or variations in the transactions contemplated will be reflected in an amendment or supplement to this Registration Statement.

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The information in this prospectus is not complete and may be changed. We may not issue these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

Subject to Completion, dated August 1, 2008

## PROSPECTUS

### TREE.COM, INC.

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#### 16,654,428 Shares of Common Stock, Par Value \$0.01 Per Share

This prospectus is being furnished to you as a stockholder of IAC in connection with the spin-off by IAC/InterActiveCorp to its stockholders of HSN, Inc. ("HSNi"), Interval Leisure Group, Inc. ("ILG), Ticketmaster and Tree.com, Inc. ("Tree.com" or the "Company") (each, a "Spinco" and collectively, the "Spinco's"), each a wholly-owned subsidiary of IAC that at the time of its spin-off will hold directly or indirectly the assets and liabilities associated with the following businesses:

- HSNi: HSN TV, *HSN.com*, and the Cornerstone Brands, Inc. portfolio of catalogs, websites and retail locations;
- ILG: the businesses currently comprising IAC's Interval segment;
- Ticketmaster: Ticketmaster's primary domestic and international operations, as well as certain investments in unconsolidated affiliates; and
- Tree.com: the businesses currently comprising IAC's Lending and Real Estate segments.

To implement the spin-offs, IAC, the Company and the other Spinco's will effect a series of restructuring transactions following which IAC will distribute all of the outstanding shares of common stock of the Spinco's on a pro rata basis to the holders of IAC common stock and/or Class B common stock. Each of you, as a holder of IAC common stock and/or Class B common stock, will receive one-fifth of a share of common stock of HSNi, one-fifth of a share of common stock of ILG, one-fifth of a share of common stock of Ticketmaster and one-thirtieth of a share of common stock of Tree.com for every share of IAC common stock and/or Class B common stock that you held at the close of business on [ • ], 2008, the record date for the spin-offs. The spin-offs will be effective as of [ • ], 2008, unless otherwise determined by IAC's board of directors.

Immediately after the spin-off of Tree.com is completed, Tree.com will be a separate public company. All of the outstanding shares of the common stock of Tree.com are currently owned by IAC. Accordingly, there currently is no public trading market for the common stock of Tree.com. Tree.com has been approved to list its common stock under the ticker symbol "TREE" on the NASDAQ Stock Market.

**No vote of IAC stockholders is required in connection with the Tree.com spin-off.** Neither IAC nor the Company is asking you for a proxy, and you are not requested to send us a proxy. IAC stockholders will not be required to pay any consideration for the shares of common stock of the Company they receive in the spin-off, and they will not be required to surrender or exchange shares of their IAC common stock and/or Class B common stock or take any other action in connection with the spin-off.

In reviewing this prospectus, you should carefully consider the matters described under the caption "Risk Factors" beginning on page 8 of this prospectus.

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**NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THESE SECURITIES OR PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.**

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The date of this prospectus is [ • ], 2008.

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This prospectus describes the businesses of the Company as though they were its businesses for all historical periods described. However, the Company is a newly formed entity that has not conducted any operations prior to the spin-off and instead will have had such businesses transferred to it prior to the spin-off. References in this prospectus to the historical assets, liabilities, products, businesses or activities of the businesses of the Company are intended to refer to the historical assets, liabilities, products, businesses or activities of the relevant businesses as those businesses were conducted as part of IAC prior to the spin-off. Following the spin-off, the Company will be a separate, publicly traded company, and IAC will have no continuing stock ownership in the Company. The historical consolidated financial information of the Company as part of IAC contained in this prospectus is not necessarily indicative of its future financial position, future results of operations or future cash flows, nor does it reflect what the financial position, results of operations or cash flows of the Company would have been had it been operated as a stand-alone company during the periods presented.

You should not assume that the information contained in this prospectus is accurate as of any date other than the date set forth on the cover. Changes to the information contained in this prospectus may occur after that date and the Company does not undertake any obligation to update the information unless required to do so by law.

## SUMMARY

This summary highlights selected information from this prospectus and may not contain all the information that may be important to you. Accordingly, you are encouraged to read carefully the entire prospectus, its annexes and the documents filed as exhibits to the Company's registration statement on Form S-1, of which this prospectus is a part.

Except as otherwise indicated or unless the context otherwise requires, (i) "Spinco" refers to any of HSNi, ILG, Ticketmaster and Tree.com and their respective subsidiaries, (ii) "Spincos" refers to all of the foregoing collectively, (iii) "IAC/InterActiveCorp" and "IAC" refer to IAC/InterActiveCorp and its consolidated subsidiaries other than, for all periods following the spin-offs, the Spincos, (iv) "HSNi" refers to HSN, Inc., (v) "ILG" refers to Interval Leisure Group, Inc., (vi) "Tree.com," the "Company," "we," "our" or "us" refers to Tree.com, Inc. and (vii) "Spin-Off," "spin-off" or "distribution" refers to the distribution by IAC of the common stock of the Company, and the "spin-offs," the "distributions" or the "separation" refers collectively to the distribution by IAC of the common stock of the Company and the other Spincos, as more fully described in this prospectus.

### Company Information

Tree.com was incorporated in Delaware in April 2008. Its principal offices are located at 11115 Rushmore Drive, Charlotte, NC 28277. Its main telephone number is 704-541-5351.

### Business of Tree.com

Through its various subsidiaries, Tree.com currently operates a lending business (the "Lending Business") and a real estate business (the "Real Estate Business"). The Lending Business consists of online networks, principally LendingTree.com and GetSmart.com, as well as call centers, which match consumers with lenders and loan brokers. In addition, the Lending Business originates, processes, approves and funds various types of residential real estate loans under two brand names, LendingTree Loans® and HomeLoanCenter.com®, and offers residential mortgage loan settlement services under the name LendingTree Settlement Services. The Real Estate Business consists primarily of an internet-enabled national residential real estate brokerage that currently operates offices in 14 markets under the brand name "RealEstate.com, REALTORS." The Real Estate Business also consists of a brokerage that matches residential home buyers interested in newly constructed homes with builders and currently operates under the brand name "iNest®."

### Businesses of the Other Spincos

*HSNi.* HSNi owns and operates, through its subsidiaries, HSN, a retailer and interactive lifestyle network offering a broad assortment of products through television home shopping programming on the HSN television network and HSN.com. HSN strives to transform the shopping experience by incorporating experts, entertainment, inspiration, solutions, tips and ideas in connection with the sale of products through the HSN television network and HSN.com. HSNi also owns and operates, through its subsidiaries, the Cornerstone Brands portfolio of catalogs and related websites, including *Frontgate*, *Ballard Designs*, *Garnet Hill*, *Smith+Noble*, *The Territory Ahead*, *TravelSmith* and *Improvements*, as well as a limited number of retail stores.

*ILG.* ILG is a leading provider of membership services to the vacation ownership industry, which is a segment of the broader hospitality industry. Vacation ownership is a term used to describe the shared ownership of vacation real estate and includes those businesses which develop, manage, operate and sell vacation interests (*i.e.*, the ownership or use of accommodations at a given property or properties, together with associated amenities and facilities for a specified period of time). ILG's principal business segment, Interval, makes available vacation ownership membership services to individual members of its exchange networks, which allows such members to exchange the use and

occupancy of their vacation interest for comparable, alternative accommodations at the same or another resort participating in an Interval exchange network and provides such members with certain value-added products and services depending on the program and country of residence. Interval also makes available related services to developers of the resorts participating in its exchange networks worldwide. ILG's other business segment, RQH, was acquired in May 2007 and is a provider of vacation rental and property management services to vacationers and vacation property owners across Hawaii.

*Ticketmaster.* As the world's leading live entertainment ticketing and marketing company, Ticketmaster connects the world to live entertainment. Ticketmaster currently operates in 20 countries worldwide, providing ticket sales, ticket resale services, marketing and distribution through [www.ticketmaster.com](http://www.ticketmaster.com) and related proprietary Internet and mobile channels, independent sales outlets and call centers worldwide. Established in 1976, Ticketmaster serves clients across multiple live event categories, providing exclusive ticketing services for leading arenas, stadiums, amphitheaters, music clubs, concert promoters, professional sports franchises and leagues, college sports teams, performing arts venues, museums and theaters.

## Overview of the Separation

On July 1, 2008, the Board of Directors of IAC approved a plan to separate IAC into five separate, publicly traded companies via the distribution of all of the outstanding shares of common stock of the Spincos, each a wholly-owned subsidiary of IAC, with each Spinco having a single class of common stock. At the time of the spin-offs, the Spincos will hold directly or indirectly the assets and liabilities associated with the following businesses:

- HSNi: HSN TV, *HSN.com*, and the Cornerstone Brands, Inc. portfolio of catalogs, websites and retail locations;
- ILG: the businesses currently comprising IAC's Interval segment;
- Ticketmaster: Ticketmaster's primary domestic and international operations, as well as certain investments in unconsolidated affiliates; and
- Tree.com: the businesses currently comprising IAC's Lending and Real Estate segments.

Unless otherwise indicated or the context otherwise requires, references in this prospectus to the businesses of HSNi, ILG, Ticketmaster and Tree.com respectively refer to the businesses described above.

Immediately following the spin-offs, IAC primarily will be engaged in the business and operations relating to (i) Ask.com, Citysearch, IAC Advertising Solutions, Evite and Funweb Products; (ii) Match.com, ServiceMagic and Shoebuy.com; (iii) its emerging businesses, including Black Web Enterprises, BustedTees, CollegeHumor, GarageGames, Gifts.com, Green.com, InstantAction, Primal Ventures, Pronto, Very Short List, Vimeo and 23/6; and (iv) certain investments in unconsolidated entities.

Prior to the spin-offs, we will enter into a Separation and Distribution Agreement and several other agreements with IAC and the other Spincos to effect the separation of the Spincos and provide a framework for the relationships of the Spincos with IAC and each other. Immediately following the spin-offs, IAC stockholders will own 100% of the outstanding common stock of each of the Spincos.

## QUESTIONS AND ANSWERS ABOUT TREE.COM AND THE SPIN-OFFS

***Why are the spin-offs structured as dividends?***

IAC believes that a tax-free distribution of shares of the Spincos to IAC stockholders is a tax-efficient way to separate HSNi, ILG, Ticketmaster and Tree.com from the rest of IAC in a manner that will create long-term value for IAC stockholders.

***How will the Tree.com spin-off occur?***

IAC will distribute to its stockholders via dividend all of the outstanding shares of common stock of Tree.com owned by IAC, which will be 100% of the common stock of Tree.com outstanding immediately prior to the spin-off.

***How many shares of Tree.com will I receive?***

Unless otherwise determined by the IAC Board of Directors prior to the distribution date, for every share of IAC common stock or Class B common stock held by you as of the record date, you will receive one-thirtieth of a share of common stock of Tree.com. IAC will not distribute any fractional shares of Tree.com common stock to its stockholders. Instead, the distribution agent will aggregate fractional shares into whole shares, sell the whole shares in the open market at prevailing market prices and distribute the aggregate net cash proceeds of the sales pro rata to each holder who otherwise would have been entitled to receive a fractional share in the spin-off. Recipients of cash in lieu of fractional shares will not be entitled to any interest on the amounts of payment made in lieu of fractional shares. The number of shares that IAC will distribute to its stockholders will be reduced to the extent that cash payments are to be made in lieu of the issuance of fractional shares of Tree.com common stock.

***Can IAC decide not to complete the Tree.com spin-off?***

Yes. The IAC Board of Directors has reserved the right, in its sole discretion, to amend, modify or abandon the spin-offs and related transactions at any time prior to the distribution date. This means that IAC has the right not to complete the spin-off of any or all of the Spincos if, at any time, the IAC Board of Directors determines, at its sole discretion, that the spin-off is not in the best interests of IAC or its stockholders. Alternatively, the IAC Board of Directors may determine to delay the spin-off of one or more of the Spincos, in which event the spin-offs may not occur simultaneously. In addition, the spin-offs are subject to the satisfaction or waiver of a number of conditions. See "The Separation—Conditions to the Spin-offs."

***What is the record date for the Tree.com spin-off?***

The record date for determining stockholders entitled to receive the shares of Tree.com in the spin-off is the close of business on [ • ], 2008.

***What is the distribution date for the Tree.com Spin-off?***

The distribution date for distributing the shares of common stock of Tree.com under the spin-off is [            ], 2008. However, the IAC Board of Directors may determine to delay the spin-off.

***What other transactions affecting Tree.com are occurring with the spin-off?***

It is currently expected that, at the time of the spin-off, Tree.com will have approximately \$110 million in cash, which would mean a \$55 million cash contribution by IAC based upon March 31, 2008 balances. See "Transfers to IAC and Financing."

In addition, IAC expects to effect a reverse stock split following the spin-offs, as described under "The Separation—Results of the Separation."

***What are the U.S. federal income tax consequences of the spin-offs to IAC stockholders?***

IAC has requested and expects to receive, prior to effecting any of the spin-offs, a private letter ruling from the Internal Revenue Service (the "IRS") and/or an opinion of counsel satisfactory to the IAC Board of Directors regarding the qualification of the spin-offs, together with certain related transactions, as transactions that are generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Internal Revenue Code of 1986, as amended (the "Code"). If the private letter ruling is received prior to the spin-offs, IAC expects to receive an opinion of counsel regarding certain aspects of the transaction that are not covered by the private letter ruling. If the private letter ruling is not received prior to the spin-offs, IAC expects to receive an opinion of counsel regarding the qualification of the spin-offs as transactions that are generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code. Assuming the spin-offs qualify as transactions that are generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code, for U.S. federal income tax purposes, no gain or loss will be recognized by you, and no amount will be included in your income, upon the receipt of shares of Spinco common stock pursuant to the spin-offs, except with respect to any cash received in lieu of a fractional share of Spinco common stock. For more information, see "The Separation—Material U.S. Federal Income Tax Consequences of the Spin-Offs," included elsewhere in this prospectus.

***What will the relationships among IAC and each of the Spinco's be following the spin-offs?***

Prior to the spin-offs, we will enter into a Separation and Distribution Agreement and several other agreements with IAC and the other Spinco's to effect the spin-offs and provide a framework for the relationships of each of the Spinco's with IAC and the other Spinco's. These agreements will govern our relationships with IAC and the other Spinco's subsequent to the completion of the spin-off. See "Certain Relationships and Related Party Transactions—Relationships Among IAC and the Spinco's."

***Will I receive physical certificates representing shares of common stock of Tree.com following the separation?***

No. Following the separation, neither IAC nor Tree.com will be issuing physical certificates representing shares of the common stock of Tree.com. Instead, IAC, with the assistance of The Bank of New York, the distribution agent, will electronically issue shares of Tree.com common stock to you or to your bank or brokerage firm on your behalf by way of direct registration in book-entry form. The Bank of New York will mail you a book-entry account statement that reflects your shares of Tree.com common stock, or your bank or brokerage firm will credit your account for the shares.

***What if I want to sell my IAC common stock or my common stock in Tree.com?***

You should consult with your financial advisors, such as your stockbroker or bank. Neither IAC nor Tree.com makes any recommendations on the purchase, retention or sale of shares of IAC common stock or the Spinco common stock to be distributed.

If you decide to sell any shares before the spin-offs, you should make sure your stockbroker, bank or other nominee understands whether you want to sell your IAC shares or Spinco shares you will receive in the spin-offs or both.

***Where will I be able to trade shares of the common stock of Tree.com?***

There is not currently a public market for the common stock of Tree.com. We have been approved to list our common stock on the NASDAQ Stock Market, or "NASDAQ," under the symbol "TREE." We anticipate that trading in shares of our common stock will begin on a "when-issued" basis prior to the distribution date and will continue up to and including through the distribution date and that "regular-way" trading in shares of our common stock will begin on the first trading day following the distribution date. If trading begins on a "when-issued" basis, you may purchase or sell your Tree.com common stock up to and including through the distribution date, but your transaction will not settle until after the distribution date. You will not be required to make any payment, surrender or exchange your shares of IAC common stock and/or Class B common stock or take any other action to receive your shares of Tree.com common stock.

***Will the number of IAC shares I own change as a result of the spin-offs?***

No. The number of shares of IAC common stock you own will not change as a result of the spin-offs. However, in connection with the spin-offs, and as described under "The Separation—Results of the Separation," IAC expects to effect a reverse stock split following the spin-offs.

***What will happen to the listing of IAC common stock?***

Nothing. IAC common stock will continue to be traded on NASDAQ under the symbol "IACI."

***Which businesses will be retained by IAC following the spin-offs?***

Immediately following the spin-offs, IAC primarily will be engaged in the business and operations relating to (i) Ask.com, Citysearch, IAC Advertising Solutions, Evite, and Funweb Products; (ii) Match.com, ServiceMagic and Shoebuy.com; (iii) its emerging businesses, including Black Web Enterprises, BustedTees, CollegeHumor, GarageGames, Gifts.com, Green.com, InstantAction, Primal Ventures, Pronto, Very Short List, Vimeo and 23/6; and (iv) certain investments in unconsolidated entities.

***Are there risks to owning Tree.com common stock?***

Yes. Our business is subject to both general and specific risks relating to our business, leverage, relationship with IAC and being a separate publicly traded company. Our business is also subject to risks relating to the separation. These risks are described in the "Risk Factors" section of this prospectus beginning on page 8. You are encouraged to read that section carefully.

***Where can IAC stockholders get more information?***

Before the spin-offs, if you have any questions relating to the spin-offs, you should contact:

IAC  
Investor Relations  
555 West 18th Street  
New York, NY 10011  
Tel: (212) 314-7400  
Fax: (212) 314-7379  
[ir@iac.com](mailto:ir@iac.com)

***Is Liberty Media Corporation challenging the spin-offs?***

No. Liberty Media Corporation and IAC have agreed to a single-tiered voting structure for each of the Spinco's and the Spinco governance provisions as set forth under "Certain Relationships and Related Party Transactions—Agreements with Liberty Media Corporation."

## RISK FACTORS

### RISK FACTORS RELATING TO OUR SPIN-OFF FROM IAC

***After our spin-off from IAC, we may be unable to make the changes necessary to operate effectively as a separate public entity.***

Following our spin-off from IAC, IAC will have no obligation to provide financial, operational or organizational assistance to us, other than limited services pursuant to a transition services agreement that we will enter into with IAC and the other Spincos in connection with the spin-offs. As a separate public entity, we will be subject to, and responsible for, regulatory compliance, including periodic public filings with the SEC and compliance with NASDAQ's continued listing requirements, as well as generally applicable tax and accounting rules. We may be unable to implement successfully the changes necessary to operate as an independent public entity.

***We expect to incur increased costs relating to operating as an independent company that could cause our cash flow and results of operations to decline.***

We expect that the obligations of being a public company, including substantial public reporting and investor relations obligations, will require new expenditures, place new demands on our management and will require the hiring of additional personnel. We may need to implement additional systems that require new expenditures in order to adequately function as a public company. Such expenditures could adversely affect our business, financial condition and results of operations.

In addition, IAC's businesses, by virtue of being under the same corporate structure, currently share economies of scope and scale in costs, human capital, vendor relationships and customer relationships with the businesses that we and the other Spincos will own following the spin-offs. The increased costs resulting from the loss of these benefits could have an adverse effect on us.

***If one or more spin-offs, together with certain related transactions, were to fail to qualify as a transaction that is generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code, IAC, the Spincos and IAC stockholders may be subject to significant tax liabilities.***

IAC expects to receive a private letter ruling from the IRS and/or an opinion of counsel satisfactory to the IAC Board of Directors regarding the qualification of the spin-offs, together with certain related transactions, as transactions that are generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code. If the private letter ruling is received prior to the spin-offs, IAC expects to receive an opinion of counsel regarding certain aspects of the transaction that are not covered by the private letter ruling. If the private letter ruling is not received prior to the spin-offs, IAC expects to receive an opinion of counsel regarding the qualification of the spin-offs as transactions that are generally tax free for U.S. federal income tax purposes under Section 355 and/or Section 368(a)(1)(D) of the Code, and opinions from its external tax advisors regarding the U.S. federal income tax consequences to IAC of certain related matters and transactions, and certain state tax consequences to IAC of the spin-offs. The IRS private letter ruling and the opinions will be based on, among other things, certain assumptions as well as the accuracy of certain representations and statements that IAC and the Spincos make to the IRS and to counsel or IAC's external tax advisors. If any of these representations or statements are, or become, inaccurate or incomplete, or if IAC or the Spincos breach any of their respective covenants, the IRS private letter ruling and/or the opinions may be invalid.

Moreover, as noted above, the IRS private letter ruling would not address all the issues that are relevant to determining whether the spin-offs qualify as transactions that are generally tax free for U.S. federal income tax purposes. Notwithstanding the IRS private letter ruling and/or opinion of counsel, the IRS could determine that one or more of the spin-offs should be treated as a taxable distribution if

it determines that any of the representations, assumptions or undertakings that were included in the request for the IRS private letter ruling is false or has been violated or if it disagrees with the conclusions in the opinion of counsel that are not covered by the IRS ruling.

If one or more spin-offs were to fail to qualify as a transaction that is generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code, then IAC generally would recognize gain in an amount equal to the excess of (i) the fair market value of the Spinco common stock distributed to the IAC stockholders in such taxable spin-off over (ii) IAC's tax basis in the common stock of such Spinco. In addition, each IAC stockholder who received Spinco common stock in such taxable spin-off generally would be treated as having received a taxable distribution in an amount equal to the fair market value of the Spinco common stock received (including any fractional share sold on behalf of the stockholder) in such spin-off, which would be taxable as a dividend to the extent of the stockholder's ratable share of IAC's current and accumulated earnings and profits (as increased to reflect any current income, including any gain, recognized by IAC on the taxable spin-off). The balance, if any, of the distribution would be treated as a nontaxable return of capital to the extent of the IAC stockholder's tax basis in its IAC stock, with any remaining amount being taxed as capital gain. For more information, see "The Separation—Material U.S. Federal Income Tax Consequences of the Spin-Offs," included elsewhere in this prospectus.

Under the Tax Sharing Agreement that we will enter into with IAC and the other Spinco, each Spinco generally would be required to indemnify IAC and the other Spinco for any taxes resulting from the spin-off of such Spinco (and any related interest, penalties, legal and professional fees, and all costs and damages associated with related stockholder litigation or controversies) to the extent such amounts resulted from (i) any act or failure to act by such Spinco described in the covenants in the Tax Sharing Agreement, (ii) any acquisition of equity securities or assets of such Spinco or a member of its group, or (iii) any breach by such Spinco or any member of its group of any representation or covenant contained in the separation documents or in the documents relating to the IRS private letter ruling and/or tax opinions. The ability of IAC or the other Spinco to collect under these indemnity provisions will depend on the financial position of the indemnifying party. See "Certain Relationships and Related Party Transactions—Tax Sharing Agreement."

In addition, the IRS could disagree with or challenge the conclusions reached in one or more of the tax opinions that IAC expects to receive with respect to certain related matters and transactions. In such case, IAC could recognize material amounts of taxable income or gain.

***The market price and trading volume of Tree.com securities may be volatile and may face negative pressure.***

There is currently no trading market for any Tree.com securities. Investors may decide to dispose of some or all of the Tree.com securities that they receive in the Tree.com spin-off. Tree.com securities issued in the Tree.com spin-off will be trading publicly for the first time. Until, and possibly even after, orderly trading markets develop for these securities, there may be significant fluctuations in price. It is not possible to accurately predict how investors in Tree.com's securities will behave after the Tree.com spin-off. The market price for Tree.com's securities following the Tree.com spin-off may be more volatile than the market price of IAC securities before the spin-off. The market price of Tree.com's securities could fluctuate significantly for many reasons, including the risks identified in this prospectus or reasons unrelated to our performance. These factors may result in short- or long-term negative pressure on the value of the Tree.com securities.

***After our spin-off from IAC, our securities may not qualify for placement in investment indices. In addition, our securities may fail to meet the investment guidelines of institutional investors. In either case, these factors may negatively impact the price of our securities and may impair our ability to raise capital through the sale of securities.***

Some of the holders of IAC securities are index funds tied to NASDAQ or other stock or investment indices, or are institutional investors bound by various investment guidelines. Companies are generally selected for investment indices, and in some cases selected by institutional investors, based on factors such as market capitalization, industry, trading liquidity and financial condition. As an independent company, we will initially have a lower market capitalization than IAC has today. As a result, our securities may not qualify for those investment indices. In addition, the securities that are received in the Tree.com spin-off may not meet the investment guidelines of some institutional investors. Consequently, these index funds and institutional investors may have to sell some or all of the securities they receive in the Tree.com spin-off, and the price of our securities may fall as a result. Any such decline could impair our ability to raise capital through future sales of securities.

***Financing—We may have future capital needs and may not be able to obtain additional financing on acceptable terms.***

The current uncertainties surrounding the industries in which operate, as well as other factors, may constrain our financing abilities. Our ability to secure additional financing and satisfy our financial obligations under indebtedness outstanding from time to time will depend upon our future operating performance, which is subject to then prevailing general economic and credit market conditions, including interest rate levels and the availability of credit generally, and financial, business and other factors, many of which are beyond our control. The prolonged continuation or worsening of current credit market conditions would have a material adverse effect on our ability to secure financing on favorable terms, if at all.

We may be unable to secure additional financing or financing on favorable terms or our operating cash flow may be insufficient to satisfy our financial obligations under indebtedness outstanding from time to time (if any). Furthermore, if financing is not available when needed, or is available on unfavorable terms, we may be unable to develop new or enhance our existing services, complete acquisitions or otherwise take advantage of business opportunities or respond to competitive pressures, any of which could have a material adverse effect on our business, financial condition and results of operations. If additional funds are raised through the issuance of equity securities, our stockholders may experience significant dilution.

***The spin-off agreements were not the result of arm's length negotiations. In addition, the Tax Sharing Agreement restricts our ability to enter into certain transactions that might otherwise be beneficial to us and our stockholders.***

The agreements that we will enter into with IAC and the other Spincos in connection with the spin-offs, including the separation and distribution agreement, tax sharing agreement, employee matters agreement and transition services agreement, were established by IAC, in consultation with the Spincos, with the intention of maximizing the value to current IAC's shareholders. Accordingly, the terms for us may not be as favorable as would have resulted from negotiations among unrelated third parties.

We and the other Spincos will enter into a Tax Sharing Agreement with IAC that will restrict our ability to enter into certain transactions that might be advantageous to us and our stockholders. In particular, the Tax Sharing Agreement will limit our ability to issue securities to satisfy financial needs, repurchase equity securities, dispose of certain assets, engage in mergers and acquisitions and, under certain circumstances, acquire businesses or assets with equity securities or agree to be acquired. See "The Separation—Material U.S. Federal Income Tax Consequences of the Spin-Offs" and "Certain Relationships and Related Party Transactions—Tax Sharing Agreement."

**RISK FACTORS RELATING TO OUR BUSINESS FOLLOWING  
TREE.COM'S SPIN-OFF FROM IAC**

***Adverse Events and Trends—Adverse conditions in the primary and secondary mortgage markets, as well as the economy generally, could materially and adversely affect our business, financial condition and results of operations.***

The primary and secondary mortgage markets have been (and are currently) experiencing unprecedented and continuing disruption, which have had, and are expected to continue to have, an adverse effect on our business, financial condition and results of operations. These conditions, coupled with adverse economic conditions and continuing declines in residential real estate prices generally, have resulted, and are expected to continue to result, in decreased consumer demand for the lending and real estate offerings provided by our networks and other businesses. Generally, increases in interest rates adversely affect the ability of the Lending Business and Network Lenders to close loans, while adverse economic trends limit the ability of the Lending Business and Network Lenders to offer home loans other than low margin conforming loans. Likewise, adverse economic trends have reduced, and are expected to continue to reduce, the number of prospective home purchasers and home prices, which adversely affects our Real Estate Business. Our businesses may experience a further decline in demand for their offerings due to decreased consumer demand as a result of the conditions described above now or in the future. Conversely, during periods of robust consumer demand, which are typically associated with decreased interest rates, some Network Lenders may have less incentive to use our networks. Prolonged declines in demand for offerings of our businesses could have a material adverse effect on our business, financial condition and results of operations.

The secondary mortgage markets have also been (and are currently) experiencing unprecedented and continued disruptions resulting from reduced investor demand for mortgage loans and mortgage-backed securities and increased investor yield requirements for those loans and securities. These conditions may continue for a prolonged period of time or worsen in the future. Home Loan Center, Inc. does not have the capital resources or credit necessary to retain the loans it funds and closes, and as a result sells substantially all such loans within 30 days of funding as discussed above. Accordingly, a prolonged period of secondary market illiquidity may force the Lending Business to significantly reduce the volume of loans that it originates and funds through Home Loan Center, Inc., which could have an adverse effect on our business, financial condition and results of operations.

***Adverse Events and Trends—Adverse conditions in the credit markets could materially and adversely affect our business, financial condition and results of operation.***

The credit markets, in particular those financial institutions that provide warehouse financing and similar arrangements to mortgage lenders have been (and are currently) experiencing unprecedented and continued disruptions resulting from instability in the mortgage and housing markets. As previously discussed, Tree.com's Lending Business originates, processes, approves and funds various consumer mortgage loans through Home Loan Center, Inc., which operates primarily under the brand name "LendingTree Loans®." These direct lending operations have significant financing needs that are currently being met through borrowings under warehouse lines of credit or repurchase agreements to fund and close loans, followed by the sale of substantially all loans funded to investors in the secondary mortgage markets. Current credit market conditions, such as significantly reduced and limited availability of credit, increased credit risk premiums for certain market participants and increased interest rates generally, increase the cost and reduce the availability of debt and may continue for a prolonged period of time or worsen in the future.

As of December 31, 2007, LendingTree Loans had committed lines of credit, primarily warehouse lines, totaling \$550 million, of which \$500 million expired on January 31, 2008, and \$50 million expires on October 31, 2008, and an uncommitted line of \$150 million. Borrowings under these lines of credit

are used to fund, and are secured by, consumer residential loans that are held for sale. Loans under these lines of credit are repaid from proceeds from the sales of loans held for sale by LendingTree Loans. The interest rate under these lines of credit is 30-day LIBOR plus 75 to 100 basis points, but may be higher under certain circumstances. The committed line that expired on January 31, 2008 was subsequently renewed at a reduced size of \$50 million and will expire on January 24, 2009 and can be cancelled at the option of the lender without default upon sixty days notice. However, if the lender determines at any time prior to January 24, 2009 the spin-off materially and adversely affects us, the lender reserves the right to deem the line of credit expired prior to January 24, 2009. The interest rate under this line of credit increased at the renewal date to 30-day LIBOR plus 140 basis points, but may be higher under certain circumstances. The \$50 million committed line of credit that expires on January 24, 2009 and the \$150 million uncommitted line are provided by the same lender. The \$50 million committed line that expires on October 31, 2008 is provided by one other lender. LendingTree Loans is highly dependent on the availability of credit to finance its operations.

Although we believe that our lines of credit are sufficient for our current operations, further reductions in our available credit, or the inability to renew or replace these lines, could have an adverse effect on our business, financial condition and results of operations. The Lending Business attempts to mitigate the impact of current conditions and future credit market disruptions by maintaining committed and uncommitted warehouse lines of credit (currently, two committed warehouse lines of credit) with financial institutions. However, both of these financial institutions, like all financial institutions, are subject to the same adverse market conditions and may be affected by recent market disruptions, which may affect the decision to reduce or renew these lines, or the pricing for these lines. As a result, current committed warehouse lines of credit may be inadequate to support operations or the cost of debt may not allow Home Loan Center, Inc. to operate at profitable levels. Because Home Loan Center, Inc. is highly dependent on the availability of credit to finance its operations, the continuation of current credit market conditions for a prolonged period of time or worsening of such conditions could have an adverse effect on our business, financial condition and results of operations, particularly over the next few years.

***Contingent Liabilities—Litigation and Indemnification of Secondary Market Purchasers—Litigation and indemnification of secondary market purchasers could have a material adverse effect on our business, financial condition, results of operations and liquidity.***

In connection with the sale of loans to secondary market purchasers, Home Loan Center, Inc. makes certain representations regarding related consumer credit information, loan documentation and collateral. To the extent that these representations are incorrect, Home Loan Center, Inc. may be required to repurchase loans or indemnify secondary market purchasers for losses due to borrower defaults. While Home Loan Center, Inc. seeks to ensure that loans it originates comply with these representations and warranties, secondary market purchasers may take a contrary position. In connection with the sale of loans to secondary market purchasers, Home Loan Center, Inc. also agrees to repurchase loans or indemnify secondary market purchasers for losses due to early payment defaults (*i.e.*, late payments during a limited time period immediately following origination). In connection with the sale of a majority of its loans to secondary market purchasers, Home Loan Center, Inc. also agrees to repay all or a portion of the initial premiums paid by secondary market purchasers in instances where loans are prepaid prior to the end of relevant prepayment penalty periods.

We and our businesses are also parties to litigation involving a variety of matters, many of which involve damage claims for substantial amounts (see "Business of Tree.com—Legal Proceedings").

We believe that following the spin-offs we will have adequate resources to satisfy our obligations relating to the potential exposures described above. However, it is possible that these liabilities will be greater than anticipated. Given that we may have limited access to the credit markets following the spin-offs, if the liabilities are in excess of expectations, our ability to satisfy such obligations may be

dependent upon our ability to raise capital in the equity markets, which may be uncertain and is subject to limitations under the tax sharing agreement.

***Third-Party Relationships—We depend on relationships with Network Lenders, real estate professionals, credit providers and secondary market investors and any adverse changes in these relationships could adversely affect our business, financial condition and results of operations.***

Our success depends, in significant part, on the quality and pricing of services provided by, and/or the continued financial stability of, Network Lenders and real estate professionals participating on our networks, credit providers and secondary market investors. Network Lenders or real estate professionals could, for any reason, cease participating on the networks operated by (or otherwise choose not to enter into relationships with) our businesses, fail to pay matching and/or closing fees when due and/or cease providing quality services on competitive terms. In addition, credit providers and/or secondary market investors could, for any reason, choose not to make credit available to (or otherwise enter into relationships with) Home Loan Center, Inc., and in the case of secondary market investors only, cease purchasing loans from Home Loan Center, Inc. In particular, revenues attributable to purchases of loans by two such entities, Countrywide and CitiMortgage, represented approximately 28% and 13%, respectively, of our consolidated revenues in 2007. The occurrence of one of more of these events by a significant number of Network Lenders, real estate professionals, credit providers and/or secondary market investors, particularly Countrywide and CitiMortgage, could, alone or in combination, have a material adverse effect on our business, financial condition and results of operations.

***Network Security—A breach of our network security or the misappropriation or misuse of personal consumer information may have an adverse impact on our business, financial condition and results of operations.***

Any penetration of network security or other misappropriation or misuse of personal consumer information maintained by us could cause interruptions in the operations of our businesses and subject us to increased costs, litigation and other liabilities. Claims could also be made against us for other misuse of personal information, such as for unauthorized purposes or identity theft, which could result in litigation and financial liabilities, as well as administrative action from governmental authorities. Security breaches could also significantly damage our reputation with consumers and third parties with whom we do business. In that regard, on April 21, 2008, we announced that several mortgage companies had gained unauthorized access to LendingTree's customer information database and had used the information to solicit mortgage loans directly from our customers. We promptly reported the situation to the Federal Bureau of Investigation and have been cooperating fully with the FBI's investigation. While LendingTree does not believe this situation resulted in any fraud on the consumer or identity theft, LendingTree notified affected consumers as required by applicable law. Notwithstanding the foregoing, following our announcement, several putative class action lawsuits were filed against LendingTree, seeking to recover damages for consumers allegedly injured by this incident (see "Business of Tree.com—Legal Proceedings").

As in the case of any financial services company, we may be required to expend significant capital and other resources to protect against and remedy any potential or existing security breaches and their consequences. We also face risks associated with security breaches affecting third parties with which we are affiliated or otherwise conduct business online. Consumers are generally concerned with security and privacy of the internet, and any publicized security problems affecting our businesses and/or those of third parties may discourage consumers from doing business with us, which could have an adverse effect on our business, financial condition and results of operations.

***Failure to Provide Competitive Service—Network Lenders and real estate professionals may not provide competitive levels of service to consumers, which could adversely affect our brands and businesses and their ability to attract consumers.***

The ability of our businesses to provide consumers with a high-quality experience depends, in part, on consumers receiving competitive levels of convenience, customer service, price and responsiveness from Network Lenders and real estate professionals with whom they are matched through our networks. If Network Lenders and real estate professionals do not provide consumers with competitive levels of convenience, customer service, price and responsiveness, the value of our various brands may be harmed, the ability of our businesses to attract consumers to our websites may be limited and the number of consumers ultimately matched through our networks may decline, which could have a material adverse effect on our business, financial condition and results of operations.

***Brand Recognition—Failure to maintain brand recognition and attract and retain customers in a cost-effective manner could adversely affect our business, financial condition and results of operations.***

In order to attract visitors to their websites, convert these visitors into paying customers and capture repeat business from existing customers, our businesses must promote and maintain their various brands successfully, which involves the expenditure of considerable money and resources for online and offline advertising, marketing and related efforts, as well as the continued provision and introduction of high-quality products and services.

We believe that continuing to build and maintain the recognition of our various brands is critical to achieving increased demand for the services provided by our businesses, given that brand recognition is a key differentiating factor among providers of online services. Accordingly, we have spent, and expect to continue to spend, significant amounts of money on, and devote significant resources to, branding, advertising and other marketing initiatives, which may not be successful or cost-effective. We believe that rates for desirable online and offline advertising and marketing are likely to increase in the foreseeable future. The failure of our businesses to maintain the recognition of their respective brands and attract and retain customers in a cost-effective manner could adversely affect our business, financial condition and results of operations.

Lastly, publicity from legal proceedings against us or our businesses, particularly governmental proceedings, consumer class action litigation or the disclosure of information security breaches, could negatively impact our various brands, which could adversely affect our business, financial condition and results of operations.

***Third-Party Relationships Are Not Exclusive—Network Lenders and real estate professionals affiliated with our networks are not precluded from offering products and services outside of these networks.***

Because our businesses do not have exclusive relationships with Network Lenders and real estate professionals, consumers may obtain loans and real estate offerings directly from these third-party service providers without having to go through our networks. Network Lenders can offer loans (and real estate professionals can offer services) directly to consumers through marketing campaigns or other traditional methods of distribution, such as referral arrangements, brick and mortar operations or, in the case of lending, broker agreements. Network Lenders and real estate professionals can also offer loans and services to prospective customers online directly or through one or more online competitors of our businesses or both. If a significant number of consumers seek loans and services directly from Network Lenders and real estate professionals as opposed to through our networks, our business, financial conditions and results of operations would be adversely affected.

***Compliance and Changing Laws, Rules and Regulations—Failure to comply with existing laws, rules and regulations, or to obtain and maintain required licenses, could adversely affect our business, financial condition and results of operations.***

The failure of our businesses to comply with existing laws, rules and regulations, or to obtain required licenses, could result in administrative fines and/or proceedings against us or our businesses by governmental agencies and/or litigation by consumers, which could adversely affect our business, financial conditions and results of operations. Our businesses market and provide services in heavily regulated industries through a number of different online and offline channels across the United States. As a result, they are subject to a variety of statutes, rules, regulations, policies and procedures in various jurisdictions in the United States, which are subject to change at any time.

Our businesses conduct marketing activities via the telephone, the mail and/or through online marketing channels, which activities are governed by numerous federal and state regulations, such as the Telemarketing Sales Rule, state telemarketing laws, federal and state privacy laws, the CAN-SPAM Act, and the Federal Trade Commission Act and its accompanying regulations and guidelines, among others. While we believe that the practices of our businesses have been structured in a manner to ensure compliance with these laws and regulations, federal or state regulatory authorities may take a contrary position.

Most states require licenses to solicit, broker or make loans secured by residential mortgages and other consumer loans to residents of those states, as well as to operate real estate referral and brokerage services, and in many cases require the licensure or registration of individual employees engaged in aspects of these businesses. Currently, Congress, many state legislatures and state agencies are proposing to adopt, or have recently implemented, additional licensing requirements on mortgage lenders, brokers and their employees. While our businesses have endeavored to comply with applicable requirements, the application of these licensing requirements to persons operating online is not always clear. Moreover, any of the licenses or rights currently held by our businesses or their employees may be revoked prior to, or may not be renewed upon, their expiration. In addition, our businesses or their employees may not be granted new licenses or rights for which they may be required to apply from time to time in the future.

Our businesses are also subject to various state, federal and/or local laws, rules and regulations that regulate the amount and nature of fees that may be charged for transactions and incentives, such as rebates, that may be offered to consumers by our businesses, as well as the manner in which these businesses may offer, advertise or promote transactions. For example, the Real Estate Settlement Procedures Act, or RESPA, generally prohibits the payment or receipt of referral fees and fee shares or splits in connection with residential mortgage loan transactions, subject to certain exceptions. The applicability of referral fee and fee sharing prohibitions to lenders and real estate providers, including online networks, may have the effect of reducing the types and amounts of fees that may be charged or paid in connection with real estate-secured loan offerings or activities, including mortgage brokerage, lending and real estate brokerage services, or otherwise limiting the ability to conduct marketing and referral activities. Although we believe that our businesses have been structured in such a way so as to comply with RESPA, the relevant regulatory agency may take a contrary position.

In addition, some states have regulations that prohibit real estate brokers from providing consumers with rebates or other incentives in connection with real estate transactions. Additional states could promulgate similar regulations or interpret existing regulations in a way that limits the ability of online networks to offer consumer incentives in connection with real estate transactions, thereby limiting the attractiveness of real estate brokerage activities offered by our Real Estate Business.

Additional federal, state and in some instances, local, laws regulate residential lending and real estate brokerage activities. These laws generally regulate the manner in which lending, lending-related and real estate brokerage activities are made available, including advertising and other consumer

disclosures, payments for services and record keeping requirements, and include RESPA, the Fair Credit Reporting Act, the Truth in Lending Act, the Equal Credit Opportunity Act and the Fair Housing Act. In addition, state laws often restrict the amount of interest and fees that may be charged by a lender or mortgage broker, or otherwise regulate the manner in which lenders or mortgage brokers operate or advertise. Furthermore, Congress, many state legislatures and state agencies are proposing, or have recently implemented, additional restrictions on mortgage lending practices. Failure to comply with applicable laws and regulatory requirements may result in, among other things, revocation of required licenses or registrations, loss of approval status, termination of contracts without compensation, administrative enforcement actions and fines, class action lawsuits, cease and desist orders and civil and criminal liability. While we believe that our businesses have been structured in such a way so as to comply with existing and new laws, the relevant regulatory authorities may take a contrary position or future legislation may adversely affect our business, financial condition and results of operations.

Likewise, states or municipalities may adopt statutes or regulations making it unattractive, impracticable, or infeasible for our businesses to continue to conduct business in that jurisdiction. The withdrawal from any jurisdiction due to emerging legal requirements could adversely affect our business, financial condition and results of operations.

Federal, state and in some instances, local, laws also prohibit unfair and deceptive sales practices generally. While we have adopted appropriate policies and procedures to address these requirements (such as appropriate consumer disclosures and call scripting, call monitoring, pricing controls and other quality assurance and compliance measures, which have evolved and improved over time), employees do not always comply with policies and procedures, and therefore, liability and brand injury could result from such employee misconduct.

As employers, our businesses are subject to federal and state employment laws. In particular, the Fair Labor Standards Act and California wage and hour laws govern the treatment of "non-exempt" employees, which may include loan officers and loan processors at Home Loan Center, Inc. Failure to comply with applicable employment laws may result in, among other things, administrative fines, class action lawsuits, damages awards and injunctions, any of which could adversely affect our business, financial condition and results of operations.

Parties with whom our businesses conduct business similarly may be subject to federal and state regulation. These parties typically act as independent contractors and not as agents in their solicitations and transactions with consumers. Consequently, we cannot ensure that these entities will comply with applicable laws and regulations at all times. Failure on the part of a lender, real estate professional, website operator or other third party to comply with these laws or regulations could result in, among other things, claims of vicarious liability or a negative impact on the reputation of Tree.com and its businesses. The occurrence of one or more of these events could have an adverse effect on our business, financial condition and results of operation.

Our Real Estate Business is subject to rules and regulations of various real estate boards, as well as the rules of various non-governmental associations and organizations, including but, not limited to, local and regional Multiple Listing Services that provide real estate listing data. Our Real Estate Business is dependent on real estate listing data made available through Multiple Listing Services and other sources. While we believe that our Real Estate Business is structured to comply with these rules and regulations, the relevant organization may take a contrary position, which could adversely affect our business, financial condition and results of operations.

***Third Party Compliance—If Network Lenders fail to produce required documents for examination by, or other affiliated parties fail to make certain filings with, state regulators, Tree.com may be subject to fines, forfeitures and the revocation of required licenses.***

Some of the states in which our businesses maintain licenses require them to collect various loan documentation from Network Lenders and produce this documentation for examination by state regulators. While Network Lenders are contractually obligated to provide these documents upon request, these measures may be insufficient. Failure to produce required documents for examination could result in fines, as well as the revocation of our businesses' licenses to operate in key states, which could have a material adverse affect on our business, financial condition and results of operations.

Regulations promulgated by some states may impose compliance obligations on directors, executive officers, large customers and any person who acquires a certain percentage (for example, 10% or more) of our common stock, including requiring such persons to periodically file financial and other personal and business information with state regulators. If any such person refuses or fails to comply with these requirements, our businesses may be unable to obtain a license, and existing licensing arrangements may be jeopardized, in particular states. The inability to obtain, or the loss of, required licenses could have a material adverse effect on our business, financial conditions and results of operations.

***Maintenance of Systems and Infrastructure—Our success depends, in part, on the integrity of our systems and infrastructures. System interruption and the lack of integration and redundancy in these systems and infrastructures may have an adverse impact on our business, financial conditions and results of operations.***

Our success depends, in part, on our ability to maintain the integrity of our systems and infrastructures, including websites, information and related systems, call centers and distribution and fulfillment facilities. System interruption and the lack of integration and redundancy in our information systems and infrastructures may adversely affect our ability to operate websites, process and fulfill transactions, respond to customer inquiries and generally maintain cost-efficient operations. We may experience occasional system interruptions that make some or all systems or data unavailable or prevent our businesses from efficiently providing services or fulfilling orders. We also rely on affiliate and third-party computer systems, broadband and other communications systems and service providers in connection with the provision of services generally, as well as to facilitate, process and fulfill transactions. Any interruptions, outages or delays in our systems and infrastructures, our businesses, our affiliates and/or third parties, or deterioration in the performance of these systems and infrastructures, could impair the ability of our businesses to provide services, fulfill orders and/or process transactions. Fire, flood, power loss, telecommunications failure, hurricanes, tornadoes, earthquakes, acts of war or terrorism, acts of God and similar events or disruptions may damage or interrupt computer, broadband or other communications systems and infrastructures at any time. Any of these events could cause system interruption, delays and loss of critical data, and could prevent our businesses from providing services, fulfilling orders and/or processing transactions. While our businesses have backup systems for certain aspects of their operations, these systems are not fully redundant and disaster recovery planning is not sufficient for all eventualities. In addition, we may not have adequate insurance coverage to compensate for losses from a major interruption. If any of these adverse events were to occur, it could adversely affect our business, financial conditions and results of operations.

In addition, any penetration of network security or other misappropriation or misuse of personal consumer information could cause interruptions in the operations of our businesses and subject us to increased costs, litigation and other liabilities. Claims could also be made against us for other misuse of personal information, such as for unauthorized purposes or identity theft, which could result in litigation and financial liabilities, as well as administrative action from governmental authorities. Security breaches could also significantly damage our reputation with consumers and third parties with whom we do business. It is possible that advances in computer capabilities, new discoveries, undetected fraud, inadvertent violations of company policies or procedures or other developments could result in a

compromise of information or a breach of the technology and security processes that are used to protect consumer transaction data. As a result, current security measures may not prevent any or all security breaches. We may be required to expend significant capital and other resources to protect against and remedy any potential or existing security breaches and their consequences. We also faces risks associated with security breaches affecting third parties with which we are affiliated or otherwise conduct business online. Consumers are generally concerned with security and privacy of the Internet, and any publicized security problems affecting our businesses and/or those of third parties may discourage consumers from doing business with us, which could have an adverse effect on our business, financial condition and results of operations.

***Privacy—The processing, storage, use and disclosure of personal data could give rise to liabilities as a result of governmental regulation, conflicting legal requirements or differing views of personal privacy rights.***

In the processing of consumer transactions, our businesses receive, transmit and store a large volume of personally identifiable information and other user data. The sharing, use, disclosure and protection of this information are governed by the privacy and data security policies maintained by us and our businesses. Moreover, there are federal, state and international laws regarding privacy and the storing, sharing, use, disclosure and protection of personally identifiable information and user data. Specifically, personally identifiable information is increasingly subject to legislation and regulations in numerous jurisdictions around the world, the intent of which is to protect the privacy of personal information that is collected, processed and transmitted in or from the governing jurisdiction. We could be adversely affected if legislation or regulations are expanded to require changes in business practices or privacy policies, or if governing jurisdictions interpret or implement their legislation or regulations in ways that negatively affect our business, financial condition and results of operations.

Our businesses may also become exposed to potential liabilities as a result of differing views on the privacy of consumer and other user data collected by these businesses. Our failure, and/or the failure by the various third party vendors and service providers with which we do business, to comply with applicable privacy policies or federal, state or similar international laws and regulations or any compromise of security that results in the unauthorized release of personally identifiable information or other user data could damage the reputation of these businesses, discourage potential users from trying our products and services and/or result in fines and/or proceedings by governmental agencies and/or consumers, one or all of which could adversely affect our business, financial condition and results of operations.

***Intellectual Property—We may fail to adequately protect our intellectual property rights or may be accused of infringing intellectual property rights of third parties.***

We may fail to adequately protect our intellectual property rights or may be accused of infringing intellectual property rights of third parties. We regard our intellectual property rights, including patents, service marks, trademarks and domain names, copyrights, trade secrets and similar intellectual property (as applicable), as critical to our success. Our businesses also rely heavily upon software codes, informational databases and other components that make up their products and services.

We rely on a combination of laws and contractual restrictions with employees, customers, suppliers, affiliates and others to establish and protect these proprietary rights. Despite these precautions, it may be possible for a third party to copy or otherwise obtain and use trade secret or copyrighted intellectual property without authorization which, if discovered, might require legal action to correct. In addition, third parties may independently and lawfully develop substantially similar intellectual properties.

We have generally registered and continue to apply to register, or secure by contract when appropriate, our trademarks and service marks as they are developed and used, and reserve and register domain names as we deem appropriate. We generally consider the protection of our

trademarks to be important for purposes of brand maintenance and reputation. While we vigorously protect our trademarks, service marks and domain names, effective trademark protection may not be available or may not be sought in every country in which products and services are made available, and contractual disputes may affect the use of marks governed by private contract. Similarly, not every variation of a domain name may be available or be registered, even if available. Our failure to protect our intellectual property rights in a meaningful manner or challenges to related contractual rights could result in erosion of brand names and limit our ability of to control marketing on or through the internet using our various domain names or otherwise, which could adversely affect our business, financial condition and results of operations.

Some of our businesses have been granted patents and/or have patent applications pending with the United States Patent and Trademark Office and/or various foreign patent authorities for various proprietary technologies and other inventions. We consider applying for patents or for other appropriate statutory protection when we develop valuable new or improved proprietary technologies or inventions are identified, and will continue to consider the appropriateness of filing for patents to protect future proprietary technologies and inventions as circumstances may warrant. The status of any patent involves complex legal and factual questions, and the breadth of claims allowed is uncertain. Accordingly, any patent application filed may not result in a patent being issued or existing or future patents may not be adjudicated valid by a court or be afforded adequate protection against competitors with similar technology. In addition, third parties may create new products or methods that achieve similar results without infringing upon patents that we own. Likewise, the issuance of a patent to us does not mean that our processes or inventions will not be found to infringe upon patents or other rights previously issued to third parties.

From time to time, we are subject to legal proceedings and claims in the ordinary course of business, including claims of alleged infringement of the trademarks, copyrights, patents and other intellectual property rights of third parties. In addition, litigation may be necessary in the future to enforce our intellectual property rights, protect trade secrets or to determine the validity and scope of proprietary rights claimed by others. Any litigation of this nature, regardless of outcome or merit, could result in substantial costs and diversion of management and technical resources, any of which could adversely affect our business, financial condition and results of operations. Patent litigation tends to be particularly protracted and expensive.

## FORWARD-LOOKING STATEMENTS

Forward-looking statements in this prospectus, the public filings or other public statements of the Company are subject to known and unknown risks, uncertainties and other factors that may cause actual results, performance or achievements of the Company to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements or other public statements. Forward-looking statements include the information regarding future financial performance, business prospects and strategy, including the completion of the spin-offs and the realization of related anticipated benefits, anticipated financial position, liquidity and capital needs and other similar matters, in each case relating to the Company.

Statements preceded by, followed by or that otherwise include the words "believes," "expects," "anticipates," "intends," "projects," "estimates," "plans," "may increase," "may fluctuate," and similar expressions or future or conditional verbs such as "will," "should," "would," "may" and "could" are generally forward-looking in nature and not historical facts. You should understand that the following important factors could affect future results and could cause actual results to differ materially from those expressed in such forward-looking statements:

- adverse changes in economic conditions generally or in any of the markets or industries in which the businesses of the Company operate;
- changes in senior management at the Company;
- adverse changes to, or interruptions in, relationships with third parties;
- changes affecting the ability of the Company to efficiently maintain and grow the market share of its various brands, as well as to extend the reach of these brands through a variety of distribution channels and to attract new (and retain existing) customers;
- consumer acceptance of new products and services offered by the Company;
- the rates of growth of the Internet and the e-commerce industry;
- changes adversely affecting the ability of the Company to adequately expand the reach of its businesses into various international markets, as well as to successfully manage risks specific to international operations and acquisitions, including the successful integration of acquired businesses;
- future regulatory and legislative actions and conditions affecting the Company, including:
  - the promulgation of new, and/or the amendment of existing laws, rules and regulations applicable to the Company and its businesses; and
  - changes in the application or interpretation of existing laws, rules and regulations in the case of the businesses of the Company. In each case, laws, rules and regulations include, among others, those relating to sales, use, value-added and other taxes, software programs, consumer protection and privacy, intellectual property, the Internet and e-commerce;
- competition from other companies;
- changes adversely affecting the ability of the Company and its businesses to adequately protect intellectual property rights, as well as to obtain licenses or other rights with respect to intellectual property in the future, which may or may not be available on favorable terms (if at all);
- the substantial indebtedness of the Company and the possibility that the Company may incur additional indebtedness;

- third-party claims alleging infringement of intellectual property rights by the Company or its businesses, which could result in the expenditure of significant financial and managerial resources, injunctions or the imposition of damages, as well as the need to enter into formal licensing or other similar arrangements with such third parties, which may or may not be available on favorable terms (if at all); and
- natural disasters, acts of terrorism, war or political instability.

Certain of these factors and other factors, risks and uncertainties are discussed in the "Risk Factors" section of this prospectus. Other unknown or unpredictable factors may also cause actual results to differ materially from those projected by the forward-looking statements. Most of these factors are difficult to anticipate and are generally beyond the control of IAC and the Company.

You should consider the areas of risk described above, as well as those set forth under the heading "Risk Factors," in connection with considering any forward-looking statements that may be made by the Company generally. Except for the ongoing obligations of the Company to disclose material information under the federal securities laws, the Company does not undertake any obligation to release publicly any revisions to any forward-looking statements, to report events or to report the occurrence of unanticipated events unless required to do so by law.

## THE SEPARATION

### General

On July 31, 2008, the IAC Board of Directors approved the separation of IAC into five separate, publicly traded companies, with each Spinco having a single class of common stock: (1) IAC, (2) HSNi, (3) ILG, (4) Ticketmaster and (5) Tree.com. The separation will be accomplished through the distribution by IAC of all of the shares of the common stock of the Spincos held by IAC to holders of IAC common stock on the record date. Immediately following the distributions, IAC stockholders will own 100% of the outstanding common stock of IAC and the Spincos. You will not be required to make any payment, surrender or exchange your shares of IAC common stock and/or Class B common stock or take any other action to receive your shares of Tree.com common stock.

The Board of Directors of IAC has reserved the right to modify, delay or abandon the spin-off of any or all of the Spincos. In addition, the spin-offs are subject to the satisfaction or waiver of a number of conditions described under "—Conditions to the Spin-Offs."

### The Number of Shares You Will Receive in the Tree.com Spin-off

For every share of IAC common stock and/or Class B common stock that you owned at the close of business on [ • ], 2008, the record date, you will receive one-thirtieth of a share of common stock of Tree.com on the distribution date. As described below under "—When and How You Will Receive the Dividend," IAC will not distribute any fractional shares of Tree.com common stock to its stockholders.

### When and How You Will Receive the Dividend

IAC will distribute the shares of Tree.com common stock on [ • ], 2008, the distribution date. However, the IAC Board of Directors may determine to delay the Tree.com spin-off. The Bank of New York, which currently serves as the transfer agent and registrar for IAC's common stock, will serve as transfer agent and registrar for the Tree.com common stock and as distribution agent in connection with the spin-offs.

If you own IAC common stock and/or Class B common stock as of the close of business on the record date, the shares of Spinco common stock that you are entitled to receive in the spin-off will be issued electronically, as of the distribution date, to you or to your bank or brokerage firm on your behalf by way of direct registration in book-entry form. Registration in book-entry form refers to a method of recording stock ownership when no physical share certificates are issued to stockholders, as is the case in the spin-off.

Commencing on or shortly after the distribution date, if you hold physical stock certificates that represent your shares of IAC common stock and/or Class B common stock and you are the registered holder of the IAC shares represented by those certificates, the distribution agent will mail to you an account statement that indicates the number of shares of Spinco common stock that have been registered in book-entry form in your name. If you have any questions concerning the mechanics of having shares of Tree.com common stock registered in book-entry form, you are encouraged to contact The Bank of New York by mail at 480 Washington Blvd, Jersey City, NJ 07310 or PO Box 358015, Pittsburgh, PA 15252-8015, by phone at 866-203-6218 (US and Canada) or 201-680-6685 (International), or by email at [shrrelations@bnymellon.com](mailto:shrrelations@bnymellon.com).

Most IAC stockholders hold their shares of IAC common stock through a bank or brokerage firm. In such cases, the bank or brokerage firm would be said to hold the stock in "street name" and ownership would be recorded on the bank or brokerage firm's books. If you hold your IAC common stock through a bank or brokerage firm, your bank or brokerage firm will credit your account for the shares of common stock of the Spincos that you are entitled to receive in the spin-offs. If you have any

questions concerning the mechanics of having shares of Tree.com common stock held in "street name," you are encouraged to contact your bank or brokerage firm.

The Bank of New York, as distribution agent, will not deliver any fractional shares of Tree.com common stock in connection with the spin-off. Instead, The Bank of New York will aggregate all fractional shares and sell them on behalf of the holders who otherwise would be entitled to receive fractional shares. If you physically hold IAC common stock certificates and are the registered holder, you will receive a check from the distribution agent in an amount equal to your pro rata share of the aggregate net cash proceeds of the sales. We estimate that it will take approximately two weeks from the distribution date for the distribution agent to complete the distributions of the aggregate net cash proceeds. If you hold your IAC stock through a bank or brokerage firm, your bank or brokerage firm will receive on your behalf your pro rata share of the aggregate net cash proceeds of the sales and should electronically credit your account for your share of such proceeds.

### **Results of the Separation**

After the spin-off, we will be a separate publicly traded company. Immediately following the spin-offs, based on the number of registered stockholders of IAC common stock and Class B common stock on February 25, 2008, and without giving effect to "when-issued" trading, we expect to have approximately 1,500 stockholders of record.

The actual number of shares to be distributed will be determined based on the number of shares of IAC common stock and class B common stock outstanding on the record date and will reflect the issuance of IAC common stock in connection with any exercise of IAC options, vesting of restricted share units or conversion of other convertible IAC securities between the date the IAC Board of Directors declares the dividend for the distribution and the record date for the spin-off and the issuance of IAC shares under vested IAC equity-based awards between the record date for the spin-off and the distribution date.

The spin-offs will not affect the number of outstanding shares of IAC common stock and/or Class B common stock or any rights of IAC stockholders. However, in connection with the spin-offs, as more fully described in IAC's proxy statement under Schedule 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), filed on July 10, 2008, IAC has sought approval from its stockholders of a proposal to amend its Restated Certificate of Incorporation to effect a 1-for-2 reverse stock split of its common stock and Class B common stock, which may be implemented by IAC's Board of Directors in its sole discretion immediately following the completion of the spin-offs or, if not all of the spin-offs are effected substantially simultaneously, immediately following the first spin-off. If the reverse stock split is approved by IAC's stockholders and implemented by IAC's Board of Directors, each two shares of IAC common stock or Class B common stock will be combined into one share of IAC common stock or Class B common stock, respectively. The purpose of implementing the reverse stock split would be to seek to increase the per share trading price of IAC's common stock following the spin-offs relative to what the per share trading price would be if the reverse stock split were not implemented. An increased trading price could increase interest from institutional investors, investment funds and brokerage firms in IAC common stock, lower the transaction costs involved in purchasing IAC common stock and improve the trading liquidity of IAC common stock. There can be no assurance that the reverse stock split would have the effect of increasing the per share trading price of IAC common stock following the spin-offs relative to what the per share trading price would be if the reverse stock split were not implemented.

### **Material U.S. Federal Income Tax Consequences of the Spin-Offs**

The following section describes the material U.S. federal income tax consequences of the spin-offs to "U.S. holders" (as defined below) of IAC common stock. This summary is based on current

provisions of the Internal Revenue Code of 1986, as amended (the "Code"), final, temporary or proposed U.S. Treasury regulations promulgated thereunder, judicial opinions, published positions of the IRS and all other applicable authorities, all as in effect as of the date of this document and all of which are subject to change, possibly with retroactive effect. Any such change could affect the accuracy of the statements and conclusions set forth in this document.

For purposes of this discussion, the term "U.S. holder" means a beneficial owner of IAC common stock that is, for U.S. federal income tax purposes:

- an individual who is a citizen or resident of the United States;
- a corporation, or other entity taxable as a corporation for U.S. federal income tax purposes, created or organized under the laws of the United States, any state thereof, or the District of Columbia;
- an estate, the income of which is subject to U.S. federal income tax regardless of its source; or
- a trust if (1) a court within the United States is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust or (2) it has a valid election in effect under applicable U.S. Treasury regulations to be treated as a U.S. person.

If an entity or arrangement that is treated as a partnership for U.S. federal income tax purposes holds IAC common stock, the tax treatment of a partner in such entity generally will depend on the status of the partners and the activities of the partnership. If you are a partner in a partnership holding IAC common stock, please consult your tax advisor.

This discussion only addresses holders of IAC common stock that are U.S. holders and hold such stock as a capital asset within the meaning of Section 1221 of the Code. Further, this summary does not address all aspects of U.S. federal income taxation that may be relevant to a holder in light of the holder's particular circumstances or that may be applicable to holders subject to special treatment under U.S. federal income tax law (including, for example, persons that are not U.S. holders, financial institutions, dealers in securities, traders in securities that elect mark-to-market treatment, insurance companies, mutual funds, tax-exempt organizations, partnerships or other flow-through entities and their partners or members, U.S. expatriates, holders liable for the alternative minimum tax, holders whose functional currency is not the U.S. dollar, and holders who hold their IAC common stock as part of a hedge, straddle, constructive sale or conversion transaction, or holders who acquired IAC common stock pursuant to the exercise of employee stock options or otherwise as compensation). This discussion does not address the tax consequences to any person who actually or constructively owns more than 5% of IAC common stock. In addition, no information is provided herein with respect to the tax consequences of the spin-offs under applicable state, local or non-U.S. laws or federal laws other than those pertaining to the federal income tax.

**IAC STOCKHOLDERS SHOULD CONSULT THEIR TAX ADVISORS REGARDING THE TAX CONSEQUENCES OF THE SPIN-OFFS TO THEM, INCLUDING THE EFFECTS OF U.S. FEDERAL, STATE AND LOCAL, FOREIGN AND OTHER TAX LAWS.**

IAC has requested and expects to receive, prior to effecting any of the spin-offs, a private letter ruling from the IRS and/or an opinion of counsel satisfactory to the IAC board of directors regarding the qualification of the spin-offs, together with certain related transactions, as transactions that are generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code. If the private letter ruling is received prior to the spin-offs, IAC expects to receive an opinion of counsel regarding certain aspects of the transaction that are not covered by the private letter ruling. If the private letter ruling is not received prior to the spin-offs, IAC expects to receive an opinion of counsel regarding the qualification of the spin-offs as transactions that are generally tax free for U.S.

federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code, and opinions from its external tax advisors regarding the U.S. federal income tax consequences to IAC of certain related matters and transactions, and certain state tax consequences to IAC of the spin-offs.

*Certain U.S. Federal Income Tax Consequences if Each of the Spin-Offs Qualifies as a Transaction that Is Generally Tax Free under Sections 355 and/or 368(a)(1)(D) of the Code*

Assuming that each of the spin-offs qualifies as a transaction that is generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code:

- no gain or loss will be recognized by, and no amount will be includible in the income of IAC as a result of the spin-offs, other than gain or income arising in connection with certain internal restructurings undertaken in connection with the spin-offs and with respect to any "excess loss account" or "intercompany transaction" required to be taken into account by IAC under U.S. Treasury regulations relating to consolidated federal income tax returns;
- an IAC stockholder will not recognize income, gain, or loss as a result of the receipt of Spinco common stock pursuant to the spin-offs, except with respect to any cash received in lieu of fractional shares of Spinco common stock;
- an IAC stockholder's aggregate tax basis in such stockholder's Spinco common stock received in the spin-offs (including any fractional share interests in Spinco common stock for which cash is received) will equal such stockholder's aggregate tax basis in its IAC common stock immediately before the spin-offs, allocated between the IAC common stock and the common stock of each Spinco (including any fractional share interest of Spinco common stock for which cash is received) in proportion to their relative fair market values on the date of the spin-offs;
- an IAC stockholder's holding period for Spinco common stock received in the spin-offs (including any fractional share interests of Spinco common stock for which cash is received) will include the holding period for that stockholder's IAC common stock; and
- an IAC stockholder who receives cash in lieu of a fractional share of Spinco common stock in the spin-offs will be treated as having sold such fractional share for cash, and will generally recognize capital gain or loss in an amount equal to the difference between the amount of cash received and the IAC stockholder's adjusted tax basis in the fractional share of Spinco common stock. Such gain or loss will be long-term capital gain or loss if the stockholder's holding period for its Spinco common stock exceeds one year.

If an IAC stockholder holds different blocks of IAC common stock (generally, shares of IAC common stock acquired on different dates or at different prices), such holder should consult its tax advisor regarding the determination of the basis and holding period of shares of Spinco common stock received in the spin-offs in respect of particular blocks of IAC common stock.

U.S. Treasury regulations require IAC stockholders who receive Spinco common stock in the spin-offs to attach to their U.S. federal income tax returns for the year in which the Spinco stock is received a detailed statement setting forth such data as may be appropriate to demonstrate the applicability of Section 355 of the Code to the spin-offs.

*Certain U.S. Federal Income Tax Consequences If One or More of the Spin-Offs Were Taxable*

The IRS private letter ruling and/or the opinion of counsel will be based on, among other things, certain assumptions as well as on the accuracy of certain representations and statements that IAC and the Spinco's make to the IRS and to counsel. If any of these representations or statements are, or become, inaccurate or incomplete, or if IAC or the Spinco's breach any of their respective covenants, the IRS private letter ruling and/or the opinion of counsel may be invalid.

Moreover, the IRS private letter ruling would not address all the issues that are relevant to determining whether the spin-offs qualify as transactions that are generally tax free for U.S. federal income tax purposes. Notwithstanding the IRS private letter ruling and/or opinion, the IRS could determine that one or more of the spin-offs should be treated as a taxable distribution if it determines that any of the representations, assumptions or undertakings that were included in the request for the private letter ruling is false or has been violated or if it disagrees with the conclusions in the opinion of counsel that are not covered by the IRS ruling.

If the IRS were to assert successfully that one or more of the spin-offs were taxable, the above consequences would not apply with respect to such spin-off and both IAC and holders of IAC common stock who received shares of Spinco common stock in such spin-off could be subject to tax, as described below. In addition, certain events that may or may not be within the control of IAC or a Spinco, including extraordinary purchases of IAC common stock or Spinco common stock, could cause one or more of the spin-offs not to qualify as tax free to IAC and/or holders of IAC common stock. Depending on the circumstances, a Spinco may be required to indemnify IAC and the other Spincos for some or all of the taxes and certain related losses resulting from the spin-off of such Spinco not qualifying as tax free under Sections 355 and/or 368(a)(1)(D) of the Code. See "Certain Relationships and Related Party Transactions—Tax Sharing Agreement." If a spin-off were taxable, then:

- IAC would recognize gain in an amount equal to the excess of the fair market value of Spinco common stock on the date of the spin-off distributed to IAC stockholders over IAC's adjusted tax basis in the stock of such Spinco, and IAC may also recognize income or gain with respect to certain restructuring transactions undertaken in connection with such spin-off;
- each IAC stockholder who received Spinco common stock in the taxable spin-off would be treated as having received a taxable distribution in an amount equal to the fair market value of such Spinco stock (including any fractional shares sold on behalf of the stockholder) on the spin-off date. That distribution would be taxable to the stockholder as a dividend to the extent of IAC's current and accumulated earnings and profits (as increased to reflect any current income, including any gain, recognized by IAC on the taxable spin-off). Any amount that exceeded IAC's earnings and profits would be treated first as a non-taxable return of capital to the extent of the IAC stockholder's tax basis in its IAC common stock with any remaining amounts being taxed as capital gain;
- certain stockholders could be subject to additional special rules, such as rules relating to the dividends received deduction and extraordinary dividends; and
- a stockholder's tax basis in Spinco common stock received generally would equal the fair market value of Spinco common stock on the spin-off date, and the holding period for that stock would begin the day after the spin-off date.

Even if one or more spin-offs otherwise qualify as transactions that are generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code, they could be taxable to IAC under Section 355(e) of the Code if one or more persons were to acquire directly or indirectly stock representing a 50% or greater interest, by vote or value, in IAC or one of the Spincos during the four-year period beginning on the date which is two years before the date of the spin-off, as part of a plan or series of related transactions that includes the spin-off. If such an acquisition of IAC stock or Spinco stock were to trigger the application of Section 355(e), IAC would recognize taxable gain as described above, but the spin-offs would be tax free to IAC stockholders. In addition, the IRS could disagree with or challenge the conclusions reached in one or more of the tax opinions that IAC expects to receive with respect to certain related matters and transactions. In such case, IAC could recognize material amounts of taxable income or gain.

In connection with the spin-offs, IAC and the Spincos will enter into a Tax Sharing Agreement. Under the Tax Sharing Agreement, each Spinco will have to indemnify IAC and the other Spincos for any taxes resulting from the spin-off of such Spinco (and any related interest, penalties, legal and professional fees, and all costs and damages associated with related stockholder litigation or controversies) to the extent such amounts result from (i) any act or failure to act by such Spinco described in the covenants in the Tax Sharing Agreement, (ii) any acquisition of equity securities or assets of such Spinco or a member of its group, or (iii) any breach by such Spinco or any member of its group of any representation or covenant contained in the separation documents or in the documents relating to the IRS private letter ruling and/or tax opinions. The ability of IAC or any of the Spincos to collect under these indemnity provisions will depend on the financial position of the indemnifying party. See "Certain Relationships and Related Party Transactions—Tax Sharing Agreement."

**THE FOREGOING IS A SUMMARY OF CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE SPIN-OFFS UNDER CURRENT LAW AND IS FOR GENERAL INFORMATION ONLY. THE FOREGOING DOES NOT PURPORT TO ADDRESS ALL U.S. FEDERAL INCOME TAX CONSEQUENCES OR TAX CONSEQUENCES THAT MAY ARISE UNDER THE TAX LAWS OF OTHER JURISDICTIONS OR THAT MAY APPLY TO PARTICULAR CATEGORIES OF STOCKHOLDERS. EACH IAC STOCKHOLDER SHOULD CONSULT ITS TAX ADVISOR AS TO THE PARTICULAR TAX CONSEQUENCES OF THE SPIN-OFFS TO SUCH STOCKHOLDER, INCLUDING THE APPLICATION OF U.S. FEDERAL, STATE, LOCAL AND FOREIGN TAX LAWS, AND THE EFFECT OF POSSIBLE CHANGES IN TAX LAWS THAT MAY AFFECT THE TAX CONSEQUENCES DESCRIBED ABOVE.**

#### **Market for Common Stock of Tree.com**

There is currently no public market for the Tree.com common stock. We have been approved to list our common stock on NASDAQ under the symbol "TREE." The Tree.com common stock has been approved for inclusion in the global market tier of the Nasdaq Stock Market.

#### **Trading Before the Distribution Date**

Beginning on or shortly before the record date and continuing through the distribution date, it is expected that there will be two markets in IAC common stock: a "regular-way" market and an "ex-distribution" market. Shares of IAC common stock that trade on the regular way market will trade with an entitlement to shares of the common stock of the Spincos distributed pursuant to the spin-offs. Shares that trade on the ex-distribution market will trade without an entitlement to shares of the common stock of the Spincos distributed pursuant to the spin-offs. Therefore, if you sell shares of IAC common stock in the "regular-way" market up to and including through the distribution date, you will be selling your right to receive shares of the common stock of the Spincos in the spin-offs. If you own shares of IAC common stock at the close of business on the record date and sell those shares on the "ex-distribution" market, up to and including through the distribution date, you will still receive the shares of the common stock of the Spincos that you would be entitled to receive pursuant to your ownership of the shares of IAC common stock.

Furthermore, beginning shortly before the distribution date and continuing up to and including through the distribution date, it is expected that there will be a "when-issued" market in the common stock of each of the Spincos. "When-issued" trading refers to a sale or purchase made conditionally because the security has been authorized but not yet issued. The "when-issued" trading market will be a market for shares of Spinco common stock that will be distributed to IAC stockholders on the distribution date. If you owned shares of IAC common stock at the close of business on the record date, you would be entitled to shares of the Spincos' common stock distributed pursuant to the spin-offs. You may trade this entitlement to shares of common stock of all or any of the Spincos, without the shares of IAC common stock you own, on the "when-issued" market. On the first trading

day following the distribution date, "when-issued" trading with respect to Spinco common stock will end and "regular-way" trading will begin.

### Conditions to the Spin-Offs

The IAC Board of Directors has reserved the right, in its sole discretion, to amend, modify or abandon the spin-offs and the related transactions at any time prior to the distribution date. This means IAC may cancel or delay the planned distribution of common stock of all or any of the Spinco's if at any time the Board of Directors of IAC determines that the distribution of such common stock is not in the best interests of IAC and its stockholders. If IAC's Board of Directors determines to cancel the spin-off of a Spinco, stockholders of IAC will not receive any dividend of common stock of such Spinco and IAC will be under no obligation whatsoever to its stockholders to distribute such shares.

Absent a determination of IAC's Board of Directors to the contrary, the Spinco's expect that the spin-offs will be effective on [ • ], 2008, the distribution date. In addition, the spin-offs and related transactions are subject to the satisfaction or waiver (by IAC's Board of Directors in its sole discretion) of the following conditions:

- the registration statement on Form S-1 filed by each of the Spinco's with respect to its common shares shall have been declared effective by the SEC or become effective under the Securities Act of 1933, as amended (the "Securities Act"), no stop order suspending the effectiveness of such registration statement shall have been issued and no proceedings for that purpose shall have been instituted or threatened by the SEC;
- the common stock of each of the Spinco's shall have been accepted for listing on NASDAQ, subject to compliance with applicable listing requirements;
- no order or other legal restraint or prohibition preventing the consummation of any of the spin-offs or related transactions shall be threatened, pending or in effect;
- any material consents and governmental authorizations necessary to complete the spin-offs shall have been obtained and be in full force and effect;
- the stockholders of IAC shall have approved, in accordance with the Delaware General Corporation Law (the "DGCL"), a merger agreement providing for the merger of a wholly-owned subsidiary of IAC with and into IAC pursuant to which all of the outstanding shares of preferred stock of IAC shall be converted into the right to receive cash;
- the IAC Board of Directors shall have received a written solvency opinion, in form and substance acceptable to the IAC Board of Directors, from Duff & Phelps regarding the spin-offs and related transactions, which opinion shall not have been withdrawn or modified;
- IAC shall have received an opinion of Wachtell, Lipton, Rosen & Katz, in form and substance satisfactory to the IAC Board of Directors, regarding the qualification of the spin-offs as transactions that are generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code (to the extent such qualification is not addressed by an Internal Revenue Service private letter ruling (the "IRS Ruling") received by IAC), which opinion (and, in the event IAC shall have received the IRS Ruling, the IRS Ruling) shall not have been withdrawn or modified;
- IAC shall have received opinions from its external tax advisors, in form and substance satisfactory to the IAC Board of Directors regarding the U.S. federal income tax consequences to IAC of certain related matters and transactions (to the extent such matters are not addressed by the IRS Ruling) and certain state tax consequences to IAC of the spin-offs, which opinions shall not have been withdrawn or modified; and

- IAC shall have received an opinion of Delaware counsel to IAC, in form and substance satisfactory to the IAC Board of Directors, to the effect that the spin-offs do not require approval of the stockholders of IAC under Section 271 of the DGCL.

### Reasons for the Separation

During the fall of 2007, IAC's management, in reviewing the strategic agendas and prospects of its various businesses, concluded that a separation of IAC into five separately traded public companies would best facilitate growth of the businesses. After discussion with the IAC Board of Directors, the Board agreed. Among the factors considered in arriving at this determination were:

- While the Spincos share common attributes, both with each other and with IAC, they generally face different strategic and competitive challenges. As a result, IAC management and the IAC Board determined that, in IAC's current configuration, when facing strategic and operating issues for a particular business, whether having to do with transactional alternatives, capital investment, new business initiatives, compensation or otherwise, considerations of the other businesses and of the company as a whole had the potential to lead to different decisions than might be made by standalone companies. IAC concluded, therefore, that the current structure may not be the most responsive to the exigencies of each business and that the spin-offs will enhance the success of each business by enabling IAC and the Spincos to resolve the problems that arise from the operation of different businesses within the IAC group.
- The lack of a liquid equity currency linked directly to the individual businesses constrained each business' ability to transact in its own industry and to provide equity-based incentive programs for employees that were entirely dependent on the performance of the specific business.
- While efforts were underway to increase the benefits to each business resulting from being a part of IAC, including through cost savings, better talent development and deployment, increased business opportunities, and other initiatives, the common attributes of the Spincos were more limited than initially believed, and there was therefore a limit to the benefits to be realized from such integration and the time horizon for realizing such benefits was substantially longer than IAC had initially believed.
- IAC believed that its stock performance during recent years did not reflect its operating performance or the true value of its businesses. IAC believed that this was in part because of the complexity involved in understanding a variety of businesses represented by a single equity investment, and that increased transparency and clarity into the different businesses of IAC would allow investors to more appropriately value the merits, performance and future prospects of the companies.

Because IAC concluded that the separation of these businesses would over time enhance their operating performance, open up strategic alternatives that may otherwise not have been readily available to them, and facilitate investor understanding and better target investor demand, IAC believes that following the spin-offs, the common stock of the five publicly traded companies will have a higher aggregate market value than would IAC if it were to remain in its current configuration. No assurances, however, can be given that such higher aggregate market value will be achieved. The IAC Board of Directors believes that such value increase would further facilitate growth of the separated businesses by reducing the costs of equity compensation and acquisitions undertaken with equity consideration, in each case resulting in a real and substantial benefit for the companies.

The IAC Board of Directors considered a number of other potentially negative factors in evaluating the separation, including loss of synergies from operating as one company, potential disruptions to the businesses as a result of the separation, the potential impact of the separation on the anticipated credit ratings of the Spincos, risks of being unable to achieve the benefits expected to be

achieved by the separation and the reaction of IAC stockholders to the separation, the risk that the plan of execution might not be completed and the one-time and ongoing costs of the separation. The IAC Board of Directors concluded that the anticipated benefits of the spin-offs outweighed these factors. In view of the wide variety of factors considered in connection with the evaluation of the separation and the complexity of these matters, the IAC Board of Directors did not find it useful to, and did not attempt to, quantify, rank or otherwise assign relative weights to the factors considered. The individual members of the IAC Board of Directors likely may have given different weights to different factors.

### **Litigation with Liberty Media Corporation**

In January 2008, IAC, Barry Diller and Liberty Media Corporation ("Liberty") commenced actions in the Delaware Chancery Court in which Liberty asserted, among other things, that Mr. Diller, the Chairman and CEO of IAC, had breached an agreement between Liberty and him and that therefore Liberty had assumed the right to exercise voting control over IAC. The basis for this claim was that IAC did not have the right to consummate the spin-offs with a single class voting structure and therefore acts in furtherance of the transaction had breached the agreement. After a chancery court decision in IAC and Mr. Diller's favor on March 28, 2008, the parties agreed, on May 13, 2008, to settle that litigation pursuant to the "Spinco Agreement." As described in more detail below under "Certain Relationships and Related Party Transactions—Agreements with Liberty Media Corporation," the Spinco Agreement also contains, among other things, provisions that will become effective at the time of the spin-off of each Spinco with a single class of common stock, including provisions providing Liberty the right to nominate directors to the Spinco's Board of Directors so long as Liberty maintains specified ownership levels, restrictions on acquisitions and transfers of the securities of the Spinco by Liberty and its affiliates, certain standstill restrictions on Liberty and its affiliates and registration rights to be granted to Liberty.

### **Financial Advisor**

Allen & Company LLC provided financial advice in connection with the spin-offs. Allen & Company was retained in connection with the transaction because of the firm's familiarity with the businesses and assets of IAC and the Spinco's and the firm's qualifications and reputation. IAC and Allen & Company have not yet determined the amount of fees to be paid to Allen & Company in connection with its engagement. IAC expects to pay Allen & Company a customary fee.

### **TREATMENT OF OUTSTANDING IAC COMPENSATORY EQUITY-BASED AWARDS**

In November of 2007, IAC's Compensation and Human Resources Committee (the "Committee") made determinations regarding the treatment in the spin-offs of IAC's compensatory equity-based awards granted on or prior to December 31, 2007. The various adjustments the Committee has determined to make are described below:

- (1) All unvested IAC restricted stock units ("RSUs") granted prior to August 2005 will vest immediately prior to the spin-offs, with awards thereafter settled, in accordance with applicable law, in shares of common stock of IAC, HSNi, ILG, Ticketmaster and Tree.com, in each case as though the equity holder owned the number of shares of IAC common stock underlying the IAC RSU award immediately prior to the spin-offs. Based on the most recent available information, it is expected that at the time of the spin-offs HSNi employees, ILG employees, Ticketmaster employees and Tree.com employees will hold 225,233 RSUs, 116,008 RSUs, 328,887 RSUs and 394,110 RSUs, respectively, subject to this treatment.
- (2) All unvested IAC RSUs scheduled to vest through February 2009 will vest immediately prior to the spin-offs, with awards thereafter settled, in accordance with applicable law, in shares of

common stock of IAC, HSNi, ILG, Ticketmaster and Tree.com, in each case as though the equity holder owned the number of shares of IAC common stock underlying the IAC RSU award immediately prior to the spin-offs. Based on the most recent available information, it is expected that at the time of the spin-offs HSNi employees, ILG employees, Ticketmaster employees and Tree.com employees will hold 78,772 RSUs, 39,685 RSUs, 98,306 RSUs and 32,816 RSUs, respectively, subject to this treatment.

- (3) Performance-based IAC RSUs granted in 2007, or Growth Shares, will be converted into non-performance-based IAC RSUs based on "target" value with the same vesting schedule and will thereafter be subject to the other adjustment and conversion provisions described below. Based on the most recent available information, it is expected that at the time of the spin-offs Tree.com employees will hold 157,948 RSUs subject to this treatment.
- (4) With respect to each IAC RSU award that provides for vesting of 100% of the award following passage of a multi-year period (cliff vesting awards), the portion of the unvested IAC RSU award that would have vested through February 2009 if the award had vested on an annual basis will convert into five separate RSU awards with respect to IAC and each of the Spincos, based on the applicable distribution ratios in the spin-offs and the two-for-one reverse stock split at IAC, but will otherwise have the same vesting terms and other applicable terms and conditions. Based on the most recent available information, it is expected that at the time of the spin-offs HSNi employees, ILG employees, Ticketmaster employees and Tree.com employees will hold 164,907 RSUs, 118,035 RSUs, 193,104 RSUs and 110,203 RSUs, respectively, subject to this treatment (inclusive of converted Growth Shares).
- (5) With respect to all other IAC RSUs that do not vest or convert pursuant to paragraphs (1), (2) or (4) above, the IAC RSUs will convert into an RSU award with respect to shares of common stock of the company that continues to employ the equity holder following the spin-offs, with appropriate adjustments to the number of shares of common stock underlying each such award to maintain pre- and post spin-off values, but otherwise preserving the same vesting terms and other applicable terms and conditions. Based on the most recent available information, it is expected that at the time of the spin-offs Tree.com employees will hold 161,424 RSUs subject to this treatment (inclusive of converted Growth Shares); and
- (6) All unexercised option awards, whether vested or unvested, will be split among IAC and each of the Spincos based on relative value at the time of the spin-offs, with appropriate adjustments to the number of shares of common stock underlying each such award and the per share exercise price of each such award to maintain pre- and post spin-off values, but otherwise preserving the same vesting terms and other applicable terms and conditions. Based on the most recent available information, it is expected that at the time of the spin-offs HSNi employees, ILG employees, Ticketmaster employees and Tree.com employees will hold 734,633 options, 0 options, 816,784 options and 451,885 options, respectively, subject to this treatment.

With respect to any IAC compensatory equity-based awards granted after December 31, 2007, those awards will convert into awards with respect to shares of common stock of the company that continues to employ the equity holder following the spin-offs, with appropriate adjustments to the number of shares underlying each such award and the per share exercise price of each such award (with respect to options) to maintain pre- and post spin-off values, but otherwise preserving the same vesting terms and other applicable terms and conditions. Based on the most recent available information, it is expected that at the time of the spin-offs Tree.com employees will hold 6,451 RSUs and 0 options subject to this treatment. With respect to stock options, the number of shares of common stock subject to any adjusted stock option will be rounded down to the nearest whole share. With respect to restricted stock units that do not vest in connection with the spin-offs, the number of shares of common stock subject to any adjusted restricted stock unit will be rounded up to the nearest whole

share. With respect to restricted stock units that vest in connection with the spin-offs, the number of shares of common stock that an individual will be entitled to receive in connection with the spin-offs will be rounded up to the nearest whole share.

In the event that IAC abandons the spin-off with respect to one or more Spinco's, the adjustments set forth above will apply as described above except that there will be no conversion of IAC equity awards into equity awards of a Spinco that IAC does not spin-off and employees of any such Spinco will be treated as employees of IAC for purposes of the foregoing adjustments.

The treatment of IAC compensatory equity-based awards held by persons who will be employed by IAC immediately following the spin-offs is generally similar to that described above, with certain adjustments intended to provide retention incentives for IAC corporate employees.

The principal objective of the Committee in making these adjustments was one of fairness, with some of the particular considerations being:

- A desire to reward service prior to the spin-offs with stock of the companies that made up IAC before the spin-offs, and reward service after the spin-offs with stock of the company for which an employee will work after the spin-offs;
- A recognition that the primary motivation for the Growth Share grants, which was to provide increased incentives for employees to focus on the total performance of the entire IAC conglomerate as opposed to the individual businesses for which they worked through increased volatility of potential rewards, no longer was present given the determination to do the spin-offs;
- An interest in eliminating the complexities that would be associated with adjusting the 2007 performance conditions among five separate public companies and the possibility that such adjustments would not be equitable to all holders of the awards; and
- Compliance with the terms of the applicable equity plans, tax laws and accounting requirements.

#### **DIVIDEND POLICY**

We do not currently expect to pay a regular cash dividend. The declaration and payment of future dividends to holders of common stock of the Company will be at the discretion of our board of directors and will depend upon many factors, including our financial condition, earnings, capital requirements of our businesses, covenants associated with certain debt obligations, legal requirements, regulatory constraints, industry practice and other factors that our board of directors deems relevant.

## TRANSFERS TO IAC AND FINANCING

It is currently expected that in connection with the spin-offs, HSNi, Ticketmaster and an entity that will become a subsidiary of ILG prior to the spin-offs will make certain distributions to IAC. To fund these distributions, each of these Spinco's has entered into certain financing arrangements. Additionally, each of these companies may distribute some amount of cash on hand, but these amounts are not presently knowable and are unlikely to be material. HSNi, the borrowing subsidiary of ILG and Ticketmaster are each also expected to dividend to IAC prior to the spin-offs all net receivables owed them by IAC and its affiliates.

Tree.com is expected to have \$110 million at the time of the separation, which would mean a \$55 million cash contribution by IAC based upon March 31, 2008 balances.

These dividends and cash contributions were determined by IAC after an assessment of the optimal capital structure for Tree.com and for IAC, taking into account each company's cash flow prospects, working capital and other cash needs, potential acquisition agenda and other relevant factors.

**BUSINESS OF TREE.COM**

When used with respect to any periods following the spin-offs and unless otherwise indicated, the term "Tree.com" refers to Tree.com, Inc., a Delaware corporation that was incorporated in connection with the spin-offs in April 2008 to hold IAC's lending and real estate businesses, subsidiaries and investments, the results of which were previously reported in the Lending and Real Estate reporting segments of IAC's Transactions reporting sector immediately prior to the completion of the spin-offs. The following disclosure regarding Tree.com's business assumes completion of the spin-offs.

For information regarding the results of operations of Tree.com and its segments on a historical basis, see the Consolidated Financial Statements of Tree.com and the disclosure set forth under the caption "—Management's Discussion and Analysis of Financial Condition and Results of Operations of Tree.com." For information regarding the results of operations of Tree.com on a pro forma basis to give effect to the completion of the spin-offs, see the Unaudited Pro Forma Condensed Consolidated Financial Statements for Tree.com.

**History and Overview**

Tree.com is the parent of LendingTree, LLC and is the indirect parent of several companies owned by LendingTree, LLC. LendingTree, LLC (formerly, LendingTree, Inc.) was incorporated in the state of Delaware in June 1996 and commenced nationwide operations in July 1998. LendingTree, Inc. was acquired by IAC in 2003 and converted to a Delaware limited liability company (LendingTree, LLC) in December 2004. Through its various subsidiaries, Tree.com currently operates a lending business (the "Lending Business") and a real estate business (the "Real Estate Business"). Tree.com's main website address is [www.lendingtree.com](http://www.lendingtree.com).

The Lending Business consists of online networks, principally LendingTree.com and GetSmart.com, as well as call centers, which match consumers with lenders and loan brokers. In addition, the Lending Business originates, processes, approves and funds various types of residential real estate loans under two brand names, LendingTree Loans® and HomeLoanCenter.com, and offers residential mortgage loan settlement services under the name LendingTree Settlement Services.

The Real Estate Business consists primarily of an internet-enabled national residential real estate brokerage that currently operates offices in 14 markets under the brand name "RealEstate.com, REALTORS." Outside of these 14 markets, RealEstate.com maintains relationships with a network of third-party brokerages that receive leads from RealEstate.com and pay a referral fee on closed transactions. The Real Estate Business also consists of a brokerage that matches residential home buyers interested in newly constructed homes with builders and currently operates under the brand name "iNest®."

**Lending Business**

***Our Lending Networks***

Consumers can access Tree.com's nationwide network of more than 200 banks, lenders and loan brokers online (via [www.lendingtree.com](http://www.lendingtree.com) or [www.getsmart.com](http://www.getsmart.com)) or by calling 1-800-555-TREE. Loans offered by these banks, lenders and loan brokers (the "Network Lenders") consist primarily of home mortgages (in connection with refinancings and purchases) and home equity loans.

Tree.com selects lenders throughout the country in an effort to provide full geographic lending coverage of the country and to offer a complete suite of loan offerings available in the market. Frequently, before a lender joins the Network, Tree.com performs credit and financial reviews on the lender. In addition, as a further quality assurance measure, Tree.com recently began checking new

lenders against a national antifraud database maintained by the Mortgage Asset Research Institute. All Network Lenders are required to enter into a contract that generally may be terminated upon notice by either party. No individual Network Lender accounted for more than 5% of the Lending Business revenue in any period.

Consumers seeking mortgage loans through one of Tree.com's lending networks can receive multiple conditional loan offers from Network Lenders, or from Tree.com's subsidiary doing business under the name "LendingTree Loans" (as described below), in response to a single loan request form.

The process by which the Lending Business matches consumers and Network Lenders, which is referred to in the document as the "matching process," is innovative and customer-friendly. This matching process consists of the following steps:

- **Credit Request.** Consumers complete a single loan request form for the selected loan with information regarding their income, assets and liabilities, loan preferences and other data. Consumers also consent to the retrieval of their credit report.
- **Loan Request Form Matching and Transmission.** Tree.com matches a given consumer's loan request form data, credit profile and geographic location against certain pre-established creditworthiness criteria of Network Lenders, which may be modified from time to time. Once a given loan request passes through the matching process, the loan request is automatically transmitted to up to four or five Network Lenders.
- **Lender Evaluation and Response.** Network Lenders who receive a loan request form evaluate the information in the loan request to determine whether to make a conditional loan offer. If a given Network Lender does not respond with a conditional loan offer, the loan request form is directed through the matching process a second time in an attempt to match the consumer with another Network Lender.
- **Communication of a Conditional Offer.** If one or more Network Lenders make a conditional offer, the consumer is automatically notified via e-mail, typically within minutes after the submission of the loan request form. Through these e-mails, consumers may access a dedicated webpage where they can view the proposed terms of each conditional offer, including: interest rate, closing costs, monthly payment amount, lender fees and other information. If a consumer does not have access to e-mail, conditional offers are provided to the consumer by phone or fax.
- **Loan Processing.** Consumers work offline with the relevant Network Lender to provide additional information bearing on creditworthiness to the Network Lender. If the Network Lender approves a consumer, it will then underwrite and originate the loan.
- **Ongoing Consumer and Lender Support.** Active e-mail and telephone follow-up and support is provided to both Network Lenders and consumers during the loan transaction process. This follow-up and support is designed to provide technical assistance and increase overall satisfaction of Network Lenders, as well as increase the percentage of consumers who close a loan through financial institutions found through the Lending Business.

The Lending Business also offers a short-form matching process under the LendingTree® and GetSmart® brands. This process, which provides consumers with lender contact information only, typically requires the consumer to submit less data than that required in connection with the matching process described above.

The Lending Business does not charge consumers a fee to use its lending networks. Substantially all revenues from lending networks are derived from both up-front matching fees paid by Network Lenders who receive a loan request form and closing fees paid by Network Lenders who close a transaction with the consumer. Since a given loan request form can be matched with more than one Network Lender, multiple match fees may be generated from the same form. Matching fees are

recognized at the time the loan request form is transmitted and closing fees are recognized at the time the Network Lender reports that it has closed the loan, which may be several months after the time the loan request form is transmitted.

**LendingTree Loans/Home Loan Center, Inc.**

The Lending Business also originates, processes, approves and funds various consumer mortgage loans through a Tree.com subsidiary, Home Loan Center, Inc., which operates primarily under the brand name "LendingTree Loans®." For these purposes, the Lending Business maintains loan origination offices in California and is able to provide a broad range of mortgage loan offerings to consumers in most states, primarily conforming and prime loans, and, to a lesser extent, non-conforming, Alt-A and subprime loans. Products available include both adjustable loans and fixed rate loans.

A summary of loans sold by type of loan for each of the three years in the period ended December 31, 2007 and the three months ended March 31, 2008 and 2007 and the loans held as of the periods then ended is presented below (in millions):

	Year Ended December 31,			Three Months Ended March 31,	
	2005	2006	2007	2007	2008
<b>Loans Sold</b>					
Conforming	\$ 3,462	\$ 3,773	\$ 4,210	\$ 1,132	\$ 523
% of Total	48.2%	47.9%	69.3%	58.6%	86.3%
Non-Conforming /Alt-A	\$ 2,291	\$ 2,386	\$ 1,323	\$ 504	\$ 83
% of Total	31.9%	30.0%	21.8%	26.1%	13.7%
SubPrime	\$ 269	\$ 251	\$ 51	\$ 44	\$ —
% of Total	3.7%	3.2%	0.8%	2.3%	—
Home equity	\$ 1,161	\$ 1,461	\$ 489	\$ 252	\$ 0.2
% of Total	16.2%	18.6%	8.1%	13.1%	—
<b>Total</b>	<b>\$ 7,183</b>	<b>\$ 7,871</b>	<b>\$ 6,073</b>	<b>\$ 1,932</b>	<b>\$ 606</b>
	<b>December 31,</b>			<b>March 31,</b>	
	2005	2006	2007	2007	2008
<b>Loans Held For Sale</b>					
Conforming	\$ 124	\$ 147	\$ 76	\$ 219	\$ 74
% of Total	33.0%	42.2%	82.2%	53.0%	79.1%
Non-Conforming /Alt-A	\$ 140	\$ 102	\$ 10	\$ 119	\$ 13
% of Total	37.5%	29.2%	10.5%	28.8%	14.0%
SubPrime	\$ 32	\$ 22	\$ 2	\$ 6	\$ 2
% of Total	8.7%	6.3%	2.7%	1.5%	2.5%
Home equity	\$ 78	\$ 78	\$ 4	\$ 69	\$ 4
% of Total	20.8%	22.3%	4.6%	16.7%	4.4%
<b>Total</b>	<b>\$ 374</b>	<b>\$ 349</b>	<b>\$ 92</b>	<b>\$ 413</b>	<b>\$ 93</b>

All LendingTree Loans® -branded loan originations are derived from consumer loan requests received through [www.lendingtree.com](http://www.lendingtree.com), [www.getsmart.com](http://www.getsmart.com) or 1-800-555-TREE. A portion of all consumer loan request forms received through these channels are referred to LendingTree Loans. LendingTree Loans offers those consumers a choice among various loan alternatives, with loan pricing based upon different wholesale offerings received by LendingTree Loans from the secondary market investors who purchase the loans (plus a fixed margin to cover internal costs). LendingTree Loans maintains controls to ensure that its consumer loan pricing correlates to secondary market pricing and to ensure that its consumers receive multiple loan alternatives, thus maintaining the competition and choice elements

inherent in the LendingTree brand. Tree.com believes that LendingTree Loans provides value to consumers who do not wish to negotiate with multiple lenders, but still wish to obtain loan alternatives.

LendingTree Loans® -branded loans are funded and closed using proceeds from borrowings under available warehouse lines of credit or repurchase agreements. Substantially all of the loans funded are sold, along with the accompanying loan servicing rights, to investors in the secondary market, generally within 30 days of funding, with the proceeds from such sales being used to repay borrowings under the warehouse lines of credit or repurchase agreements. For terms of the warehouse lines of credit and repurchase agreements see "Financial Position, Liquidity and Capital Resources."

Although most of Home Loan Center, Inc.'s consumer leads are sourced through [www.lendingtree.com](http://www.lendingtree.com) or 1-800-555-TREE and originated under the LendingTree Loans® brand, a small portion of Home Loan Center, Inc.'s leads are sourced from a variety of non-LendingTree channels, including third-party online lead aggregators, direct mail marketing campaigns and [www.homeloancenter.com](http://www.homeloancenter.com). When obtaining leads from third-party sources, Home Loan Center, Inc. operates under its traditional name and brand (HomeLoanCenter). Consumers who request loans through the HomeLoanCenter brand typically receive single loan offers. HomeLoanCenter -branded loans are funded, closed and sold into the secondary market in the same manner, and on substantially the same terms, as LendingTree Loans - -branded loans.

Revenues from direct lending operations are derived from the sale of loans to secondary market investors and from origination and other fees paid by borrowers. Of Home Loan Center, Inc.'s seventeen secondary market investors in 2007, the two largest, Countrywide and CitiMortgage, represented approximately 28% and 13%, respectively, of Tree.com's consolidated revenue in 2007. See "Risk Factors Relating to the Business of Tree.com Following the Spin-Offs—Adverse Events and Trends."

### ***LendingTree Settlement Services***

The Lending Business also provides loan settlement services, including title insurance, appraisal and other collateral evaluation products, flood insurance, escrow, and closing services, through LendingTree Settlement Services, Inc., which provides services to Network Lenders, as well as to Home Loan Center, Inc. (including when doing business as LendingTree Loans®). In addition, Home Loan Center, Inc. offers escrow and sub-escrow services through its subsidiary, HLC Escrow, Inc.

Revenues from LendingTree Settlement Services are derived from service fees paid by lenders, which fees may or may not be passed on by the lender to the loan customer. Revenues from escrow and sub-escrow services are derived from fees charged to the consumer by the lender or by Home Loan Center, Inc.

### ***Other Businesses***

Through the [LendingTree.com](http://LendingTree.com) and [GetSmart.com](http://GetSmart.com) websites, Tree.com's Lending Business also offers:

- unsecured loans, through which consumers are matched with multiple lenders using a network-based process similar to the mortgage loan matching process described above;
- automobile loans, through which consumers are linked with one or more third-party automobile lenders;
- credit cards, through which consumers can search various credit card offerings through a third-party vendor;
- student loans, through which consumers receive initial student loan offers through a third-party vendor; and

- various consumer insurance products, pursuant to which consumers are linked with licensed insurance agents and insurance lead aggregators to obtain insurance offers.

Revenues from these businesses are derived either from matching and closing fees, or in some cases, volume-based marketing fees. While the revenues from these businesses do not currently represent a significant portion of the revenues of the Lending Business, these revenues are expected to grow over time.

### ***Competition***

Tree.com's Lending Business, particularly its lending networks, competes with other lead aggregators, including online intermediaries that operate network-type arrangements. In the case of the direct lending operations, Tree.com believes that the primary competitors of its Lending Business are traditional lending institutions, including those that are developing their own direct, online lending channels. While these financial institutions do not operate lending networks, they process, close and fund loans as direct lenders through well-recognized, national brands, many of which are industry leaders. Tree.com's Lending Business also faces additional competition from direct lending websites owned and operated by other online lenders that originate the bulk of their loans through their websites or by phone. These companies typically operate a consumer-branded website and attract consumers via online banner ads, key word placement on search engines, partnering with affiliates and business development arrangements with other properties, including major online portals.

## **Real Estate Business**

### ***Real Estate Brokerage***

RealEstate.com, REALTORS is Tree.com's proprietary real estate brokerage business, which currently operates in the following 14 markets: Greater Portland, Seattle, Denver, Salt Lake City, San Diego, Las Vegas, Phoenix, Tucson, Sierra Vista (AZ), Charlotte, New York, New Jersey, Philadelphia and Boston. Most of the business for the proprietary real estate brokerage is internally generated based on consumers accessing [www.realestate.com](http://www.realestate.com) or by calling 1-800-REALESTATE. The brokerage recruits agents to join as independent contractors, for whom it then generates leads, with the brokerage retaining a significant share of the gross commission on closed transactions originating from company-generated leads (and a lesser share in the case of agent-generated leads). Tree.com uses both a central agent recruiting group in Charlotte, as well as local recruiting efforts, to identify agents who fit its model and would be willing to join the company. Third-party brokerage services provided by approximately 300 real estate brokerage firms are also available through [www.realestate.com](http://www.realestate.com) or by calling 1-800-REALESTATE. The Real Estate Business has developed relationships with brokers over the years, and targets prospective companies based on available lead flow by geography, their willingness to work with a lead generation company under Tree.com's terms and conditions, and the belief that such brokerage firms would generate an acceptable closing conversion rate. These third-party brokerage services are available nationwide, as well as in the 14 markets in which RealEstate.com, REALTORS currently operates. Once the consumer and the real estate professional are matched and agree to work together, the remainder of the transaction is completed locally.

The proprietary real estate brokerage business earns revenues through the real estate brokerage commissions it collects in connection with company- and agent-generated transactions. The Real Estate Business also earns revenue from referral fees paid by participating real estate brokerages.

### ***Other Real Estate Services***

The Real Estate Business also owns and operates [www.inest.com](http://www.inest.com), a website that matches potential purchasers of newly constructed homes with new home builders. iNest.com is currently available in 28 states and allows consumers to view new home community information (new home listings) on the

iNest website. From the iNest website a consumer can print a coupon to present to builders that participate in the iNest.com network upon his or her first visit to a home site, which signifies that iNest.com will act as the buyer's real estate broker for a new home purchase from that builder. Upon closing, the builder pays a commission to iNest, which in turn is split between iNest, the licensed iNest real estate broker representing the consumer, and the consumer.

### **Competition**

Tree.com's Real Estate Business competes with all real estate brokerages within the RealEstate.com, REALTORS fourteen markets. These brokerages are comprised mainly of traditional real estate companies operating as independent brands or franchisees, as well as non-traditional models, such as salaried-agent, fee-for-service, flat-fee, discount, or rebate commission models, many of which generate leads from the Internet. In addition, the Real Estate Business competes for customers with companies that are not brokerages, such as websites that aggregate real estate broker listings without related services and customer support. Given the downturn in the credit and mortgage markets, and the decline in the number of housing transactions, competition in this segment has increased.

### **Regulation and Legal Compliance**

Tree.com businesses market and provide services in heavily regulated industries through a number of different online and offline channels across the United States (see "Risk Factors Relating to the Business of Tree.com Following the Spin-Offs—Compliance and Changing Laws, Rules and Regulations"). As a result, they are subject to a variety of statutes, rules, regulations, policies and procedures in various jurisdictions in the United States, including:

- Restrictions on the amount and nature of fees or interest that may be charged in connection with a loan, in particular, state usury and fee restrictions;
- Restrictions on the manner in which consumer loans are marketed and originated, including the making of required consumer disclosures, such as the federal Truth-in-Lending Act, the federal Equal Credit Opportunity Act, the federal Fair Credit Reporting Act, the federal Fair Housing Act, the federal Real Estate Settlement Procedures Act (RESPA), and similar state laws;
- Restrictions on the amount and nature of fees that may be charged lenders and real estate professionals for providing or obtaining consumer leads, in particular, RESPA;
- Restrictions on the amount and nature of fees that may be charged consumers for real estate brokerage transactions, including any incentives and rebates, that may be offered to consumers by Tree.com businesses;
- State, and in some instances, federal, licensing or registration requirements applicable to both individuals or businesses engaged in the making or brokerage of loans (or certain kinds of loans, such as loans made pursuant to the Federal Housing Act), or the brokering of real estate transactions; and
- State and federal restrictions on the marketing activities conducted by telephone, the mail or by email, or over the internet, including the Telemarketing Sales Rule, state telemarketing laws, federal and state privacy laws, the CAN-SPAM Act, and the Federal Trade Commission Act and its accompanying regulations and guidelines.

### **Employees**

As of December 31, 2007, Tree.com had approximately 1,000 full-time employees. None of Tree.com's employees are represented under collective bargaining agreements. Tree.com considers its relations with its employees and independent contractors to be good.

## Properties

Tree.com's principal executive offices, together with certain personnel and operations of its Lending and Real Estate Businesses, are currently located in approximately 89,000 square feet of office space in Charlotte, North Carolina under leases that expire in 2015. 95,500 square feet of office space in Irvine, California is utilized by Home Loan Center, Inc. under a lease expiring in 2010, and 31,667 square feet of office space in Jacksonville, Florida is utilized by LendingTree Settlement Services under leases that expire in 2009.

## Tree.com Legal Proceedings

In the ordinary course of business, Tree.com and its subsidiaries are parties to litigation involving property, personal injury, contract, intellectual property and other claims. The amounts that may be recovered in such matters may be subject to insurance coverage. Tree.com does not believe that such ordinary course litigation will have a material effect on its business, financial condition or results of operations.

Rules of the Securities and Exchange Commission require the description of material pending legal proceedings, other than ordinary, routine litigation incident to the registrant's business, and advise that proceedings ordinarily need not be described if they primarily involve damage claims for amounts (exclusive of interest and costs) not exceeding 10% of the current assets of the registrant and its subsidiaries on a consolidated basis. Certain of the pending litigation matters described below, which management believes are the material litigations that Tree.com now faces, could involve amounts of the magnitude described above.

## Patent Litigation

**Block Financial Corp. v. LendingTree, Inc., No. 01-cv-1007 ODS (U.S. Dist. Ct., W.D. Mo.); LendingTree, LLC v. Block Financial LLC, No. 08-cv-164 ODS (U.S. Dist. Ct., W.D. Mo.).** On September 14, 2001, Block Financial Corporation ("Block") filed suit against LendingTree, LLC in the U.S. District Court for the Western District of Missouri, alleging that LendingTree, LLC's loan-matching process infringes U.S. Patent No. 6,014,645 (the "'645 patent'"), which generally claims a real-time application system for financial cards. Block seeks damages, attorneys' fees and injunctive relief.

In 2002, LendingTree, LLC filed a petition to reexamine the '645 patent with the United States Patent and Trademark Office. The Patent Office agreed to reexamine the '645 patent, and the court stayed the litigation pending reexamination. In December 2006, the Patent Office republished the patent, with certain modifications. The court then lifted its stay of the litigation. On September 27, 2007, the court issued a claim construction order.

In February 2008, Block provided LendingTree, LLC with notice of a recently issued patent, U.S. Patent No. 7,310,617 (the "'617 patent'"), a continuation of the '645 patent that purports to claim a real-time application system for financial offerings (as opposed to only financial cards). On March 6, 2008, LendingTree, LLC filed suit in the U.S. District Court for the Western District of Missouri seeking a declaration that the '617 patent is invalid. On April 14, 2008, Block filed an answer and counterclaim. Block asserts that LendingTree, LLC's loan-matching process infringes the '617 patent. Block seeks damages, attorneys' fees and injunctive relief.

On June 24, 2008, the court consolidated the two cases and approved a schedule setting a trial date of October 26, 2009. The consolidated case is currently in discovery.

**IMX, Inc. v. E-Loan, Inc., et al., No. 03-CV-1067 (U.S. Dist. Ct., D. Del.).** On November 24, 2003, IMX, Inc. ("IMX") filed suit against LendingTree, LLC and several other companies in the U.S. District Court for the District of Delaware, alleging infringement of U.S. Patent No. 5,995,947 (the

"'947 patent"), which generally claims an interactive real-time trading system for loans. In its complaint, IMX sought damages, attorneys' fees and injunctive relief. On January 26, 2004, LendingTree, LLC filed a counterclaim seeking a declaration that the '947 patent is invalid and unenforceable.

On December 14, 2005, the court (i) construed the claims of the '947 patent, (ii) granted partial summary judgment to LendingTree, LLC, limiting recoverable damages to the period commencing after the filing of suit due to IMX's failure to "mark" its website with its patent and (iii) denied the parties' cross-motions for summary judgment on the issues of infringement and invalidity.

The case against LendingTree, LLC went to trial, and on January 23, 2006, the jury returned a verdict finding infringement and awarding IMX approximately \$5.8 million in damages. The jury also found that the infringement was willful and that the asserted claims of the '947 patent are valid. LendingTree, LLC subsequently designed and implemented a work-around to avoid further infringement of the '947 patent.

On January 10, 2007, the court, ruling on various post-trial motions, (i) denied IMX's motion for a permanent injunction and its request for attorneys' fees, (ii) enhanced the damages award by 50% in light of the jury's finding of willful infringement, (iii) awarded IMX pre- and post-judgment interest, (iv) rejected LendingTree, LLC's counterclaim alleging inequitable conduct by IMX and (v) entered judgment in favor of IMX for approximately \$8.7 million plus interest.

On July 27, 2007, the court, ruling on additional motions, (i) denied IMX's renewed request for an injunction, (ii) awarded IMX approximately \$2.7 million in supplemental damages for the post-verdict, pre-design-around period, (iii) denied IMX's request to enhance those supplemental damages and (iv) awarded IMX approximately \$1.0 million in pre-judgment interest and approximately \$0.2 million in post-judgment interest to date. On August 9, 2007, an amended judgment was entered in favor of IMX for the foregoing amounts.

LendingTree, LLC appealed from this judgment to the U.S. Court of Appeals for the Federal Circuit. IMX cross-appealed from the District Court's order prohibiting recovery of damages attributable to the period prior to the filing of the complaint, and from the court's refusal to award enhanced damages for post-verdict infringement. Briefing on the appeals has been completed. Oral argument has not yet been scheduled.

As of December 31, 2007, LendingTree, LLC's reserve for this matter was approximately \$12.8 million. In connection with the appeal, IAC executed a guarantee in favor of LendingTree, LLC in the amount of \$13.5 million in lieu of LendingTree, LLC posting a bond. Before the spin-off of Tree.com is consummated, LendingTree, LLC will have to put in place a bond or similar security.

On July 24, 2008, LendingTree and IMX reached a settlement in principle concerning this matter. The parties are currently negotiating a definitive settlement agreement, which LendingTree expects to execute prior to the spin-off of Tree.com.

**Source Search Technologies, LLC v. LendingTree, LLC, No. 2:04-CV-04420 (U.S. Dist. Ct., D.N.J.).** On September 13, 2004, Source Search Technologies, LLC ("SST") filed suit against LendingTree, LLC and other companies in the U.S. District Court for the District of New Jersey, alleging infringement of U.S. Patent No. 5,758,328 (the "'328 patent"), which generally claims a computerized procurement system. SST seeks damages, attorneys' fees and injunctive relief. On November 10, LendingTree, LLC filed a counterclaim seeking a declaration that the '328 patent is invalid and unenforceable.

The court issued claim construction orders on October 16 and November 13, 2007. Following the completion of discovery, LendingTree, LLC and SST filed cross-motions for summary judgment on the issues of infringement and invalidity. LendingTree, LLC also filed a motion for summary judgment on the ground that any infringement was not willful. The court heard oral argument on these motions on November 13, 2007 and February 4, 2008.

On July 9, 2008, the court entered an opinion regarding the parties' motions for summary judgment. The court granted LendingTree's motion that the asserted claims of the '328 patent are invalid for obviousness, granted SST's motion that LendingTree infringes the asserted '328 claims, granted SST's motion that the '328 claims are not invalid for indefiniteness, dismissed LendingTree's motion for summary judgment of no willful infringement as moot, and denied SST's motion to strike the supplemental report of LendingTree's expert. On July 10, 2008, the court entered an order consistent with the rulings in its opinion and closed the case. LendingTree has not received notice from SST regarding whether it intends to appeal the court's ruling on obviousness.

### **Employment (Wage-and-Hour) Litigation**

***Gonzalez v. Home Loan Center, Inc., No. CV06-5007 (U.S. Dist. Ct., C.D. Cal.)***. On August 9, 2006, Daniel Gonzalez filed this putative class action against Home Loan Center, Inc. (hereinafter, for the purpose of this section, "HLC") in the U.S. District Court for the Central District of California. Plaintiff, a former HLC loan officer, asserts that HLC: failed to pay overtime; failed to pay wages due upon termination; failed to provide proper wage statements; failed to reimburse employees for expenses and/or improperly deducted wages for business-related expenses; and failed to provide meal and rest periods. Based upon these factual allegations, Plaintiff asserts violations of various California wage and hour laws, conversion, and violations of California Business & Professions Code § 17200. Plaintiff purports to represent a class of loan officers employed by HLC in California since August 9, 2002, and seeks damages, restitution, attorneys' fees and injunctive relief.

On December 27, 2006, Plaintiff filed a second amended complaint, adding two additional plaintiffs, David Nottingham and Jeffrey Howerton. Because these new plaintiffs had signed agreements with HLC to arbitrate all employment-related claims, HLC filed a motion to compel arbitration.

Following a mediation held in September 2007, the parties entered into an agreement to settle this action. Under the settlement agreement, HLC has agreed to pay a maximum of \$4.0 million, inclusive of payments to class members as well as attorneys' fees and costs. The settlement agreement must be approved by the court in order to become effective. On May 13, 2008, Plaintiffs filed a motion for preliminary approval of the settlement. On June 13, 2008, the court, following a hearing, granted Plaintiffs' motion and preliminarily approved the settlement. The court also scheduled a final approval hearing for December 16, 2008.

As of December 31, 2007, LendingTree, LLC's reserve for this matter was approximately \$2.1 million. This figure reflects Tree.com's estimates as to the minimum percentage of class members likely to submit claims for payment and the contractual indemnity obligations of former HLC shareholders for liability that arose prior to LendingTree, LLC's acquisition of HLC.

***Richardson v. Home Loan Center, Inc., No. 07CC01337 (Cal. Super. Ct., Orange Cty.)***. On August 2, 2007, Angela Richardson filed this putative class action against HLC in the California Superior Court for Orange County. Plaintiff, a former HLC loan processor, alleges that HLC: failed to pay overtime; failed to provide meal and rest periods; failed to pay wages due upon termination; and failed to provide proper wage statements. Based upon these factual allegations, plaintiff asserts that HLC violated various California wage and hour laws as well as California Business & Professions Code § 17200. Plaintiff purports to represent all loan processors, funders and underwriters employed by HLC since August 2, 2003, and seeks damages, restitution, attorneys' fees and injunctive relief.

On December 21, 2007, plaintiff filed a second amended complaint. On February 15, 2008, HLC filed a demurrer and a motion to strike portions of the second amended complaint. On April 3, 2008, the court overruled the demurrer and denied the motion to strike. On April 23, 2008, HLC filed an answer to the second amended complaint. A mediation is scheduled for August 15, 2008.

Plaintiffs have not yet filed a motion for class certification. No trial date has been set.

As of December 31, 2007, LendingTree, LLC's reserve for this matter was approximately \$0.4 million. This reserve was established in connection with a settlement offer by HLC. No settlement has been reached to date.

**Primanto v. Home Loan Center, Inc., No. 07CC01382 (Cal. Super. Ct., Orange Cty.).** On September 28, 2007, William Primanto filed this putative class action against HLC in the California Superior Court for Orange County. Plaintiff, a former HLC loan officer, alleges that HLC failed to pay overtime and asserts violations of various California wage and hour laws and of California Business & Professions Code § 17200. Plaintiff purports to represent all loan officers employed by HLC in California since September 28, 2003, and seeks compensatory damages, statutory penalties, restitution and attorneys' fees.

On December 13, 2007, the court, at the request of the parties, entered an order staying the action pending resolution of the *Gonzalez* action (discussed above). The case remains stayed.

**Johanson v. Home Loan Center, Inc., No. 07CC01405 (Cal. Super. Ct., Orange Cty.).** On November 8, 2007, Brian Johanson and Brendan Dwyer filed this putative class action against HLC in the California Superior Court for Orange County. Plaintiffs, former HLC loan officers, assert that HLC: failed to pay overtime, compensation, commission wages and bonus wages; failed to provide proper wage statements; failed to provide rest periods and meal periods or compensation in lieu thereof; and failed to pay wages due employees upon termination. Based upon these factual allegations, Plaintiffs assert violations of various California wage and hour laws and of California Business & Professions Code § 17200. Plaintiffs purport to represent a class of all persons employed by HLC in California since November 8, 2003, and seek compensatory damages, statutory penalties, restitution and attorneys' fees.

On February 21, 2008, HLC filed an answer to the complaint. A mediation is scheduled for August 15, 2008. Plaintiffs have not yet filed a motion for class certification. No trial date has been set.

**D'Asero v. Home Loan Center, Inc., No. SACV08-384 (U.S. Dist. Ct., C.D. Cal.).** On April 9, 2008, Frank D'Asero, Ezekial Mohammed, Pouria Safabakhsh and Michael McCarver filed this putative class action against HLC in the U.S. District Court for the Central District of California. Plaintiffs, former HLC loan officers, allege that HLC: denied overtime compensation in violation of federal labor law; denied overtime compensation in violation of California labor law; failed to pay wages for compensable meal breaks in violation of California labor law; made unauthorized deductions from earned wages, failed to indemnify employees and coerced purchases in violation of California labor law; made unauthorized deductions from wages in violation of North Carolina labor law; failed to pay timely wages in violation of California labor law; failed to pay wages in violation of North Carolina labor law; failed to furnish itemized wage statements in violation of California labor law; and based upon the foregoing, committed unfair business practices in violation of California Business & Professions Code § 17200.

Plaintiffs purport to represent all loan officers employed by HLC in California since April 9, 2004 and all loan officers employed by HLC in North Carolina since April 9, 2006. Plaintiffs also purport to bring a collective action under the federal Fair Labor Standards Act on behalf of all loan officers employed by HLC since April 9, 2005. Plaintiffs seek declaratory relief, an injunction, liquidated damages, compensatory damages, attorneys' fees, restitution and penalties.

On May 30, 2008, HLC filed a motion to compel arbitration of Plaintiffs' claims based upon their signed agreements with HLC to arbitrate all employment-related claims.

On June 10, 2008, Plaintiffs filed a first amended complaint, which added a new claim for violation of California's Private Attorneys General Act of 2004. In addition, on June 10, 2008, Plaintiffs filed a motion for conditional class certification. A hearing date on Plaintiffs' motion is scheduled for July 1, 2008.

On June 17, 2008, the parties executed a joint stipulation and proposed order staying all proceedings for 90 days to facilitate mediation. The parties have filed the joint stipulation and proposed order with the court for approval. A mediation is scheduled for August 15, 2008.

Plaintiffs have not yet filed a motion for class certification. No trial date has been set.

### **Privacy/Information Security Litigation**

**Miller v. LendingTree, LLC, No. 08cv2300 (U.S. Dist. Ct., N.D. Ill.).** On April 22, 2008, Eugene Miller filed this putative class action against LendingTree, LLC in the U.S. District Court for the Northern District of Illinois. The case arises out of LendingTree, LLC's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers. Plaintiff alleges that LendingTree, LLC is a "consumer reporting agency" within the meaning of the FCRA and has violated the FCRA by failing to maintain reasonable procedures designed to limit the furnishing of consumer reports. Plaintiff also asserts claims for negligence, breach of implied contract, invasion of privacy and misappropriation of confidential information. Plaintiff purports to represent all LendingTree, LLC customers affected by the information security breach, and seeks damages, attorneys' fees and injunctive relief.

LendingTree has filed a motion to dismiss this action and to compel arbitration, or, in the alternative, to dismiss for improper venue. Plaintiffs have not yet filed a motion for class action certification. No trial date has been set.

**Mitchell v. Home Loan Center, Inc., No. 08-303-RJC (U.S. Dist. Ct., W.D. N.C.).** On April 28, 2008, Angela Mitchell filed this putative class action against Home Loan Center, Inc. and LendingTree, LLC in the U.S. District Court for the Western District of Oklahoma. On LendingTree's demand, Plaintiff transferred this case to the Western District of North Carolina. As in the *Miller* case (discussed above), the case arises out of LendingTree, LLC's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers. Plaintiff asserts claims for breach of contract, negligence and negligence per se. Plaintiff purports to represent all similarly situated persons, and seeks damages, attorneys' fees and injunctive relief.

LendingTree has filed a motion to dismiss this action and to compel arbitration. Plaintiffs have not yet filed a motion for class action certification. No trial date has been set.

**Constance Spinozzi v. LendingTree, LLC, No. 3:08-cv-229 (U.S. Dist. Ct., W.D.N.C.).** On May 15, 2008, Constance Spinozzi filed this putative class action against LendingTree, LLC in the U.S. District Court for the Western District of North Carolina. As in the *Miller* case (discussed above), the case arises out of LendingTree, LLC's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers. Plaintiff alleges that LendingTree, LLC is a "consumer reporting agency" within the meaning of the FCRA and has violated the FCRA by failing to maintain reasonable procedures designed to limit the furnishing of consumer reports. Plaintiff also asserts claims for negligence and breach of implied contract. Plaintiff purports to represent all LendingTree, LLC customers affected by the information security breach, and seeks damages, attorneys' fees and injunctive relief.

On June 11, 2008, Plaintiff and the plaintiff in the *Carson* case (discussed below) filed a motion with the Judicial Panel on Multidistrict Litigation requesting that it (1) exercise jurisdiction over all actions arising out of LendingTree, LLC's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers; and (2) consolidate all such cases and transfer them to the U.S. District Court for the Western District of North Carolina.

LendingTree has filed a motion to dismiss this action and to compel arbitration. Plaintiffs have not yet filed a motion for class certification. No trial date has been set.

**Marvin Garcia v. LendingTree, LLC, No. 08 Civ. 4551 (U.S. Dist. Ct., S.D.N.Y.).** On May 16, 2008, Marvin Garcia filed this putative class action against LendingTree, LLC in the U.S. District Court for the Southern District of New York. As in the *Miller* case (discussed above), the case arises out of LendingTree, LLC's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers. Plaintiff asserts claims for breach of contract and negligence. Plaintiff purports to represent all LendingTree, LLC customers affected by the information security breach, and seeks damages, attorneys' fees and injunctive relief.

Plaintiffs have not yet filed a motion for class certification. No trial date has been set.

**Sylvia Carson v. LendingTree, LLC, No. 3:08-cv-247 (U.S. Dist. Ct., W.D.N.C.).** On May 30, 2008, Sylvia Carson filed this putative class action against LendingTree, LLC in the U.S. District Court for the Western District of North Carolina. As in the *Miller* case (discussed above), the case arises out of LendingTree, LLC's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers. Plaintiff alleges that LendingTree, LLC is a "consumer reporting agency" within the meaning of the FCRA and has violated the FCRA by failing to maintain reasonable procedures designed to limit the furnishing of consumer reports. Plaintiff also asserts claims for negligence and breach of implied contract. Plaintiff purports to represent all LendingTree, LLC customers affected by the information security breach, and seeks damages, attorneys' fees and injunctive relief.

As set forth in the *Spinuzzi* discussion (above), on June 11, 2008, Plaintiff and the *Spinuzzi* plaintiff filed a motion with the Judicial Panel on Multidistrict Litigation requesting that it (1) exercise jurisdiction over all actions arising out of LendingTree, LLC's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers; and (2) transfer and consolidate all such cases in the U.S. District Court for the Western District of North Carolina.

LendingTree has filed a motion to dismiss this action and to compel arbitration. Plaintiffs have not yet filed a motion for class certification. No trial date has been set.

**Amy Bercaw v. LendingTree, LLC, No. SACV08-660 (U.S. Dist. Ct., C.D. Cal.).** On June 13, 2008, Amy Bercaw, Russell Winsett and Ty Woods filed this putative class action against LendingTree, LLC in the U.S. District Court for the Central District of California. As in the *Miller* case (discussed above), the case arises out of LendingTree, LLC's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers. Plaintiffs allege that LendingTree, LLC is a "consumer reporting agency" within the meaning of the FCRA and has violated the FCRA by failing to maintain reasonable procedures designed to limit the furnishing of consumer reports. Plaintiffs also assert claims against LendingTree, LLC for negligence, breach of implied contract, invasion of privacy, misappropriation of confidential information in violation of California Civil Code § 17980.89, and violation of California Business and Professions Code § 17200. Plaintiff purports to represent all LendingTree, LLC customers affected by the information security breach, and seeks damages, attorneys' fees and injunctive relief.

Plaintiffs have not yet filed a motion for class certification. No trial date has been set.

**Bradley v. LendingTree, LLC, et al., SACV08-755 (U.S. Dist. Ct. C.D. Cal.).** On July 10, 2008, Geraldine Bradley, Joy Paxton-Collis, James Larson and Mark Swearingen filed this putative class action against LendingTree, LLC in the U.S. District Court for the Central District of California.

As in the *Miller* case (discussed above), the case arises out of LendingTree, LLC's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers. Plaintiffs allege that LendingTree, LLC is a "consumer reporting agency" within the meaning of the FCRA. According to Plaintiffs, LendingTree, LLC has intentionally violated the FCRA by failing to maintain reasonable procedures designed to limit the furnishing of consumer reports.

Plaintiffs also allege LendingTree, LLC negligently violated the FCRA by failing to maintain reasonable procedures to protect Plaintiffs' personal and financial information. Plaintiffs also assert claims against LendingTree, LLC for negligence, breach of implied contract, invasion of privacy, misappropriation of confidential information in violation of California statute, and violation of California's unfair competition law.

Plaintiffs purport to represent all similarly situated persons, and seeks damages, attorneys' fees and injunctive relief.

Plaintiffs have not yet filed a motion for class action certification. No trial date has been set.

***Shaver v. LendingTree, LLC, et al., SACV08-755 (U.S. Dist. Ct. C.D. Cal.)***. On July 10, 2008, Paul Shaver filed this putative class action against LendingTree, LLC in the U.S. District Court for the Central District of California.

As in the *Miller* case (discussed above), the case arises out of LendingTree, LLC's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers. Plaintiff alleges that LendingTree, LLC is a "consumer reporting agency" within the meaning of the FCRA. According to Plaintiff, LendingTree, LLC has intentionally violated the FCRA by failing to maintain reasonable procedures designed to limit the furnishing of consumer reports. Plaintiff also alleges LendingTree, LLC negligently violated the FCRA by failing to maintain reasonable procedures to protect Plaintiff's personal and financial information. Plaintiff also asserts claims against LendingTree, LLC for negligence, breach of implied contract, invasion of privacy, misappropriation of confidential information in violation of California statute, and violation of California's unfair competition law.

Plaintiff purports to represent all similarly situated persons, and seeks damages, attorneys' fees and injunctive relief.

Plaintiff has not yet filed a motion for class action certification. No trial date has been set.

#### **Other Litigation**

***Boschma v. Home Loan Center, Inc., No. SACV07-613 (U.S. Dist. Ct., C.D. Cal.)***. On May 25, 2007, Clarence and Shirley Boschma filed this putative class action against HLC in the U.S. District Court for the Central District of California. Plaintiffs allege that HLC sold them an option ARM (adjustable-rate mortgage) loan but failed to disclose in a clear and conspicuous manner, among other things, that the interest rate was not fixed, that negative amortization could occur and that the loan had a prepayment penalty. Based upon these factual allegations, Plaintiffs assert violations of the federal Truth in Lending Act (the "TILA"), violations of California Business and Professions Code § 17200 (the "UCL"), breach of contract, breach of the covenant of good faith and fair dealing and violations of California's Consumer Legal Remedies Act (the "CLRA"). Plaintiffs purport to represent a class of all individuals who between June 1, 2003 and May 31, 2007 obtained through HLC an option ARM loan on their primary residence located in California, and seek rescission, damages, attorneys' fees and injunctive relief. On August 10, 2007, Plaintiffs filed a first amended complaint that dropped their CLRA claim.

On September 11, 2007, HLC filed a motion to dismiss and a motion to strike the amended complaint. In its motion to dismiss, HLC argued that Plaintiffs' UCL claim should be dismissed because they fail to properly allege that they or the putative class members suffered injury as a result of HLC's alleged misrepresentations. The motion to dismiss also requests dismissal of Plaintiffs' claims for breach of contract and for breach of the implied covenant of good faith and fair dealing. HLC's motion to strike requests that the court strike Plaintiffs' demand for class-wide rescission under the TILA and demand for disgorgement the UCL. Plaintiffs opposed both motions. On May 27, 2008, the court granted HLC's motion to dismiss, denied HLC's motion to strike as moot, and granted Plaintiffs

leave to file a second amended complaint. On June 16, 2008, Plaintiffs filed a second amended complaint, which added a claim for fraudulent omissions. In response, HLC raised the issue that the class representatives had no standing to assert any claims for rescission under the TILA based on the fact that they had since refinanced their loan. Plaintiffs have agreed to substitute a new class representative and intend to file a third amended complaint.

The parties have agreed not to conduct discovery until after the court rules on HLC's motions. Plaintiffs have not yet filed a motion for class certification. No trial date has been set.

**Gaines v. Home Loan Center, Inc., No. SACV08-667 (U.S. Dist. Ct., C.D. Cal.).** On June 13, 2008, Joanne Gaines and Johnnie Cave filed this putative class action against HLC and LendingTree, LLC in the U.S. District Court for the Central District of California. Plaintiffs allege, in essence, that (1) HLC failed to disclose that the bundled amount for certain loan closing services (called the "TrueCost") that HLC charged to Plaintiffs was greater than HLC's actual costs for those services; (2) HLC's option ARM (adjustable rate mortgage) note failed to tell Plaintiffs that the stated interest rate and payment amounts would change after the first month and that the payment amount stated in the note was not sufficient to pay interest charges, resulting in negative amortization; and (3) HLC misrepresented that Plaintiffs would have to obtain a home equity line of credit in order to obtain a low interest rate on their option ARM loans. Based upon these factual allegations, Plaintiffs assert violations of the federal Racketeer Influenced and Corrupt Organizations Act, the federal Truth in Lending Act, California Business and Professions Code §§ 17200 and 17500, California's Consumers Legal Remedies Act, breach of contract, breach of the implied covenant of good faith and fair dealing, unjust enrichment, conversion, and money had and received.

Plaintiffs purport to represent all HLC customers who, since December 14, 2004 (1) were charged by HLC and paid a TrueCost amount that exceeded HLC's actual costs for the TrueCost services; and/or (2) entered into option ARM loan agreements with HLC; and/or (3) were misled into taking out a home equity line of credit along with their option ARM mortgage. Plaintiffs seek restitution, disgorgement, damages, attorneys' fees and injunctive relief.

Plaintiffs have not yet filed a motion for class certification. No trial date has been set.

**Schnee v. LendingTree, LLC and Home Loan Center, Inc., No. 06CC00211 (Cal. Super. Ct., Orange Cty.).** On October 11, 2006, four individual plaintiffs filed this putative class action against LendingTree, LLC and HLC in the California Superior Court for Orange County. Plaintiffs allege that they used the LendingTree.com website to find potential lenders and without their knowledge were referred to LendingTree, LLC's direct lender, HLC; that Lending Tree, LLC and HLC did not adequately disclose the relationship between them; and that HLC charged Plaintiffs higher rates and fees than they otherwise would have been charged. Based upon these allegations, Plaintiffs assert that LendingTree, LLC and HLC violated California Business and Professions Code §§ 17200 and 17500 and California's Consumer Legal Remedies Act. Plaintiffs purport to represent a nationwide class of consumers who sought lender referrals from LendingTree, LLC and obtained loans from HLC since December 1, 2004. Plaintiffs seek damages, restitution, attorneys' fees and injunctive relief.

On November 27, 2006, LendingTree, LLC and HLC filed demurrers and a motion to strike portions of the complaint, arguing, among other things, that the complaint did not adequately allege that the named class representatives read and relied upon the allegedly deceptive representations on LendingTree, LLC's website. On January 25, 2007, the court sustained the demurrers and granted the motion to strike on the reliance issue, but otherwise overruled the demurrers and denied the motion to strike. On February 14, 2007, Plaintiffs filed their first amended complaint.

On March 12, 2007, LendingTree, LLC and HLC filed demurrers and a motion to strike portions of the first amended complaint. On May 17, 2007, the court overruled the demurrers and denied the

motion to strike. On June 11, 2007, LendingTree, LLC and HLC filed an answer to the first amended complaint.

The case is currently in discovery. Plaintiffs have not yet filed a motion for class certification. No trial date has been set.

***Mortgage Store, Inc. v. LendingTree Loans d/b/a Home Loan Center, Inc., No. 06CC00250 (Cal. Super. Ct., Orange Cty.)***. On November 30, 2006, The Mortgage Store, Inc. and Castlevue Home Loans, Inc. filed this putative class action against HLC in the California Superior Court for Orange County. Plaintiffs, two former Network Lenders, allege that HLC interfered with LendingTree, LLC's contracts with Network Lenders by taking referrals from LendingTree, LLC. The complaint is largely based upon the factual allegations made in the *Schnee* complaint (described above). Based upon these factual allegations, Plaintiffs assert claims for intentional interference with contractual relations, intentional interference with prospective economic advantage, and violation of California Business and Professions Code §§ 17200 and 17500. Plaintiffs purport to represent all Network Lenders from December 14, 2004 to date, and seek damages, restitution, attorneys' fees, and punitive damages.

On February 8, 2007, HLC filed a demurrer and a motion to strike portions of Plaintiffs' complaint. On March 15, 2007, the court overruled the demurrer but granted the motion to strike in part, striking the portion of the complaint that sought restitution and disgorgement of all profits made by HLC from December 14, 2004 to date.

The case is currently in discovery. Plaintiffs have not yet filed a motion for class certification. No trial date has been set.

## CAPITALIZATION

The following table presents Tree.com's cash and cash equivalents and capitalization as of March 31, 2008 on an historical basis and on an unaudited pro forma basis for the separation. Pro forma for the separation includes the transfer of \$55 million in cash from IAC to Tree.com. IAC determined to contribute additional capital in anticipation of the separation to help Tree.com, which has recently experienced operating losses and negative cash flow from operations, weather continued uncertainties in the industries in which it operates. Tree.com is expected to have \$110 million at the time of the separation. The separation of Tree.com is described in the notes to the Unaudited Pro Forma Condensed Consolidated Balance Sheet under the Unaudited Pro Forma Condensed Consolidated Financial Statements as if the separation and the related transactions and events had been consummated on March 31, 2008.

The assumptions used and pro forma adjustments derived from such assumptions are based on currently available information and Tree.com believes such assumptions are reasonable under the circumstances. Such adjustments are subject to change based upon the finalization of the terms of the separation and the underlying separation agreements.

This table should be read in conjunction with "Selected Historical Financial Data," "Transfers to IAC and Financing," "Description of Capital Stock of the Spinco's," "Management's Discussion and Analysis of Financial Condition and Results of Operations of Tree.com" the consolidated financial statements of Tree.com and the "Unaudited Pro Forma Condensed Consolidated Financial Statements" and accompanying notes included in this Prospectus.

The table below is not necessarily indicative of Tree.com's cash and cash equivalents and capitalization had the separation and the related transactions been completed on the date assumed. The capitalization table below may not reflect the capitalization or financial condition which would have resulted had Tree.com been operating as an independent, publicly-traded company at March 31, 2008 and is not necessarily indicative of Tree.com's future capitalization or financial condition.

	As of March 31, 2008	
	Historical	Unaudited Pro Forma for the Separation
	(In millions)	
Cash and cash equivalents, including restricted cash and cash equivalents	\$ 55	\$ 110
Indebtedness:		
Short term borrowings:		
Lines of credit (primarily warehouse lines)	\$ 79	\$ 79
<b>Total indebtedness</b>	<b>79</b>	<b>79</b>
Shareholders' equity	245	300
<b>Total capitalization</b>	<b>\$ 324</b>	<b>\$ 379</b>

## SELECTED HISTORICAL FINANCIAL DATA

The following table presents summary selected historical consolidated financial information for Tree.com, Inc. ("Tree.com"). This data was derived, in part, from the historical consolidated financial statements of Tree.com included elsewhere in this document and reflects the operations and financial position of Tree.com at the dates and for the periods indicated. The information in this table should be read in conjunction with the consolidated financial statements and accompanying notes and other financial data pertaining to Tree.com included herein. However, this information does not necessarily reflect what the historical financial position and results of operations of Tree.com would have been had Tree.com been a stand-alone company during the periods presented.

	Year Ended December 31,					Three Months Ended March 31,	
	2007 <sup>(1)</sup>	2006	2005	2004 <sup>(2)</sup> (unaudited)	2003 <sup>(3)</sup> (unaudited)	2008 (unaudited)	2007 (unaudited)
(In thousands)							
<b>Statement of Operations Data:</b>							
Revenue	\$ 346,378	\$ 476,478	\$ 421,355	\$ 189,783	\$ 55,795	\$ 70,193	\$ 109,999
Operating (loss) income	(540,440)	14,171	19,254	(12,067)	(18,068)	(9,488)	(8,404)
Net (loss) income	(550,402)	8,693	5,851	(9,187)	(11,359)	(9,799)	(5,123)
			December 31,			March 31,	
	2007 <sup>(1)</sup>	2006	2005 (unaudited)	2004 <sup>(2)</sup> (unaudited)	2003 <sup>(3)</sup> (unaudited)	2008 (unaudited)	
(In thousands)							

### Balance Sheet Data (end of period):

Working capital (deficit)	\$ (16,487)	\$ 79,463	\$ 74,754	\$ 35,784	\$ 10,540	\$ 18,662
Total assets	443,587	1,261,045	1,326,961	1,074,896	745,400	442,810
Long-term obligations, net of current maturities	—	19,347	28,894	36,755	375	—
Shareholders' equity	214,624	773,453	766,486	753,674	707,948	244,545

- (1) Net loss includes impairment charges of \$475.7 million related to the write-down of Tree.com's Lending segment goodwill and intangible assets.
- (2) Includes the results of Home Loan Center since its acquisition on December 14, 2004.
- (3) Includes the results of LendingTree since its acquisition by IAC on August 8, 2003.

**TREE.COM, INC. AND SUBSIDIARIES**

**UNAUDITED PRO FORMA  
CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

The following Unaudited Pro Forma Condensed Consolidated Financial Statements of Tree.com, Inc. and subsidiaries ("Tree.com") reflect adjustments to the historical consolidated financial statements of Tree.com to give effect to the separation and related transactions described in the notes to the Unaudited Pro Forma Condensed Consolidated Financial Statements as of March 31, 2008 for the Unaudited Pro Forma Condensed Consolidated Balance Sheet and as of January 1, 2007 and January 1, 2008 for the Unaudited Pro Forma Condensed Consolidated Statement of Operations for the year ended December 31, 2007 and the three months ended March 31, 2008, respectively.

The assumptions used and pro forma adjustments derived from such assumptions are based on currently available information and Tree.com believes such assumptions are reasonable under the circumstances. At this time Tree.com does not expect material changes to the separation agreements.

The following Unaudited Pro Forma Condensed Consolidated Financial Statements should be read in conjunction with the historical consolidated financial statements of Tree.com and "Management's Discussion and Analysis of Financial Condition and Results of Operations" of Tree.com included in this Prospectus.

These Unaudited Pro Forma Condensed Consolidated Financial Statements are not necessarily indicative of Tree.com's results of operations or financial condition had the separation and related transactions been completed on the dates assumed. Also, they may not reflect the results of operations or financial condition which would have resulted had Tree.com been operating as an independent publicly-traded company during such periods. In addition, they are not necessarily indicative of Tree.com's future results of operations or financial condition.

TREE.COM, INC. AND SUBSIDIARIES

UNAUDITED PRO FORMA  
CONDENSED CONSOLIDATED BALANCE SHEET

MARCH 31, 2008

	Historical	Pro Forma Adjustments	Notes	Pro Forma
	(In thousands, except share data)			
<b>ASSETS</b>				
Cash and cash equivalents, including restricted cash and cash equivalents	\$ 54,958	\$ 55,042	(a)	\$ 110,000
Other current assets	121,672	—		121,672
Total current assets	176,630	55,042		231,672
Non-current assets	266,180	—		266,180
<b>TOTAL ASSETS</b>	<b>\$ 442,810</b>	<b>\$ 55,042</b>		<b>\$ 497,852</b>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>				
<b>LIABILITIES:</b>				
Current liabilities	\$ 157,968	\$ —		\$ 157,968
Long-term liabilities	40,297	—		40,297
<b>SHAREHOLDERS' EQUITY:</b>				
Common shares, \$0.01 par value, 50,000,000 authorized; 9,291,185 issued and outstanding on a pro forma basis	—	93	(a)	93
Additional paid-in capital	—	863,560	(a)	863,560
Invested capital	766,374	(766,374)	(a)	—
Payables to IAC and subsidiaries	42,237	(42,237)	(a)	—
Accumulated deficit	(564,066)	—		(564,066)
Total shareholders' equity	244,545	55,042		299,587
<b>TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY</b>	<b>\$ 442,810</b>	<b>\$ 55,042</b>		<b>\$ 497,852</b>

The accompanying Notes to Unaudited Pro Forma Condensed Consolidated Financial Statements are an integral part of these statements.



TREE.COM, INC. AND SUBSIDIARIES

UNAUDITED PRO FORMA  
CONDENSED CONSOLIDATED STATEMENT OF OPERATIONS

YEAR ENDED DECEMBER 31, 2007

	Historical	Pro Forma Adjustments	Notes	Pro Forma
	(In thousands, except per share data)			
Revenue	\$ 346,378	\$ —		\$ 346,378
Operating expenses	886,818	5,351	(b)	896,595
		4,426	(c)	
Operating loss	(540,440)	(9,777)		(550,217)
Other income:				
Interest income	1,171	(1,000)	(d)	171
Interest expense	(986)	—		(986)
Other income	14	—		14
Total other income (expense), net	199	(1,000)		(801)
Loss before income taxes	(540,241)	(10,777)		(551,018)
Income tax provision	(10,161)	4,462	(e)	(5,699)
<b>Net loss</b>	<b>\$ (550,402)</b>	<b>\$ (6,315)</b>		<b>\$ (556,717)</b>
Pro forma loss per share:(f)(g)				
Basic loss per share				\$ (58.46)
Diluted loss per share				\$ (58.46)

The accompanying Notes to Unaudited Pro Forma Condensed Consolidated Financial Statements are an integral part of these statements.

**TREE.COM, INC. AND SUBSIDIARIES**

**NOTES TO UNAUDITED PRO FORMA  
CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

- (a) To effect the terms of the separation as follows:
- (i) the transfer of \$55.0 million in cash from IAC to Tree.com to bring Tree.com's cash balance to \$110.0 million upon its separation from IAC;
  - (ii) the extinguishment of the payable to IAC and subsidiaries; and
  - (iii) the issuance of 9.3 million Tree.com shares to effect the transfer of its ownership from IAC to IAC's shareholders based on an expected exchange ratio of  $\frac{1}{30}$ <sup>th</sup> of a share of Tree.com for each share of IAC and the number of IAC common shares outstanding as of March 31, 2008 before giving effect to the 1 for 2 reverse stock split of IAC shares that is expected to be effected in connection with the spin-off.
- (b) Tree.com expects to incur additional costs related to being a stand-alone, public company. These costs have been estimated to be \$6.3 million on an annual basis. These costs relate to the following:
- additional personnel including accounting, tax, treasury, internal audit and legal personnel;
  - professional fees associated with audits, tax and other services;
  - increased insurance premiums;
  - increased health and welfare benefit costs;
  - costs associated with a board of directors;
  - increased franchise taxes, stock exchange listing fees, fees for preparing and distributing periodic filings with the Securities and Exchange Commission; and
  - other administrative costs and fees.

The total costs referred to above were compared to the corporate allocations from IAC for the three months ended March 31, 2008 and for the year ended December 31, 2007 in order to determine the incremental costs expected to be incurred for each period as follows:

	<b>Three Months Ended March 31, 2008</b>	<b>Year Ended December 31, 2007</b>
	(In thousands)	
Estimated stand-alone, public company costs	\$ 1,569	\$ 6,344
Less: corporate allocations	(190)	(993)
<b>Incremental costs of being a stand-alone, public company</b>	<b>\$ 1,379</b>	<b>\$ 5,351</b>

The significant assumptions underlying the determination of these estimates include:

- the number of additional personnel required to operate as a public company and the compensation level with respect to each position;
- the level of additional assistance Tree.com will require from professional service providers;
- the increase in insurance premiums as a stand-alone public company;
- the increase in health and welfare costs as a stand-alone entity; and

NOTES TO UNAUDITED PRO FORMA  
CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

- the type and level of other costs expected to be incurred in connection with being a stand-alone public company.

This amount excludes \$0.6 million of estimated one-time recruiting fees, professional fees for legal and tax services (e.g. initial benefit plan design) and other costs (e.g. initial stock exchange listing fees) expected to be incurred in initially establishing Tree.com as a stand-alone public company. These costs are therefore not expected to recur.

The information presented above in note (b), with respect to the costs that Tree.com expects to incur as a stand-alone, public company, is forward looking information within the meaning of "Forward-Looking Statements" as described on pages 21-22 of this Prospectus.

- (c) To reflect the additional compensation expense associated with equity-based awards that will be granted upon consummation of the separation.

The awards related to the consummation of the separation were granted to the Chairman and Chief Executive Officer in connection with the employment agreement that was executed upon his appointment to that role. The issuance of these awards are contingent upon the consummation of the separation. The expense related to these awards is included as a pro forma adjustment because they will vest over periods ranging from one to five years and will therefore have an impact on the ongoing operations of Tree.com. The amount was determined using a Black Scholes calculation for the stock option awards and an assumed value for the restricted stock award. The aggregate estimated value of these awards is being amortized to expense on a straight-line basis over the vesting period of the awards. This does not reflect non-recurring compensation expense related to modifications of existing equity-based awards that will be made in connection with the separation described below.

Vested stock options to purchase shares of IAC common stock will be modified as follows in connection with the separation:

Each option will convert into an option to purchase shares of common stock of all five companies, with adjustments to the number of shares subject to each option and the option exercise prices based on the relative values of IAC and the other four companies following the separation, with the intent to generally maintain equivalent value immediately pre and post the transaction.

A calculation of the estimated value of the vested options immediately prior to the separation and immediately after the separation was performed using the Black Scholes model. The incremental charge of \$0.1 million resulted from the higher estimated value of the vested stock options after the separation. This higher value is due to higher estimated weighted average volatility of the stock price of the five companies after the separation than the expected volatility of IAC's stock price. The expense is a one-time charge because the options are fully vested and there is no future service requirement.

The modification related to IAC restricted stock units ("RSUs") relates to the accelerated vesting, upon the consummation of the separation, of all RSUs granted prior to August 8, 2005 and all awards that were scheduled to vest prior to February 28, 2009. The estimated expense of \$3.1 million is the previously unrecognized compensation expense associated with these awards. The expense is treated as non-recurring because after the separation no future service is required with respect to these awards.

**NOTES TO UNAUDITED PRO FORMA  
CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

There may be additional stock-based awards granted in connection with the separation but the amount of such awards, if any, has not yet been determined and no expense with respect thereto has been reflected herein.

- (d) To reflect the elimination of intercompany interest expense for the three months ended March 31, 2008 and intercompany interest income for the year ended December 31, 2007 allocated by IAC to Tree.com.
- (e) To reflect the tax effect of the pro forma adjustments at an assumed effective tax rate of 41.4% which represents a federal statutory tax rate of 35% and a state effective statutory rate of 6.4%.
- (f) Loss per share and weighted average shares outstanding reflect the historical number of IAC common shares used to calculate IAC's earnings per share, adjusted based on an expected exchange ratio of  $1/30^{\text{th}}$  of a share of Tree.com for each share of IAC before giving effect to the 1 for 2 reverse stock split for IAC shares that is expected to be effected in connection with the separation. These amounts reflect the outstanding equity-based awards that were included in IAC's dilutive earnings per share calculation. Pro forma loss per share is calculated using the following:

	<b>Three Months Ended March 31, 2008</b>	<b>Year Ended December 31, 2007</b>
	<b>(In thousands)</b>	
Net loss	\$ (11,236)	\$ (556,717)
Basic shares outstanding—weighted average shares	9,292	9,523
Other dilutive securities including stock options, warrants and restricted stock and share units(g)	—	—
Diluted shares outstanding—weighted average shares	9,292	9,523

- (g) The effect of dilutive securities would be antidilutive due to the net loss and are therefore excluded from the calculation of diluted earnings per share.

*The following discussion describes the financial condition and results of operations of Tree.com, Inc. ("Tree.com") as though Tree.com were a separate company as of the dates and for the periods presented and includes the businesses, assets and liabilities that will comprise Tree.com following the spin-off.*

### **Spin-Off**

On November 5, 2007, IAC/InterActiveCorp ("IAC") announced that its Board of Directors approved a plan to separate IAC into five publicly traded companies, identifying Tree.com as one of those five companies. We refer to the separation transaction herein as the "spin-off." In connection with the spin-off, Tree.com was incorporated as a Delaware corporation in April 2008. Tree.com currently does not have any material assets or liabilities, nor does it engage in any business or other activities and, other than in connection with the spin-off, will not acquire or incur any material assets or liabilities, nor will it engage in any business or other activities. Upon completion of the spin-off, Tree.com will consist of the businesses that formerly comprised IAC's Lending and Real Estate segments. We refer herein to these businesses as the "Tree.com Businesses," which include LendingTree.com, RealEstate.com, GetSmart.com, LendingTree Loans, iNest and Domania.

### **Basis of Presentation**

The historical consolidated financial statements of Tree.com and its subsidiaries and the disclosure set forth in this Management's Discussion and Analysis of Financial Condition and Results of Operations of Tree.com reflect the contribution or other transfer to Tree.com of all of the subsidiaries and assets and the assumption by Tree.com of all of the liabilities relating to the Tree.com Businesses in connection with the spin-off and the allocation to Tree.com of certain IAC corporate expenses relating to the Tree.com Businesses. Accordingly, the historical consolidated financial statements of Tree.com reflect the historical financial position, results of operations and cash flows of the Tree.com Businesses since their respective dates of acquisition by IAC, based on the historical consolidated financial statements and accounting records of IAC and using the historical results of operations and historical bases of the assets and liabilities of the Tree.com Businesses with the exception of accounting for income taxes, which have been computed for Tree.com on an as if stand-alone, separate tax return basis. Intercompany transactions and accounts have been eliminated.

In the opinion of Tree.com's management, the assumptions underlying the historical consolidated financial statements of Tree.com are reasonable. However, this financial information does not necessarily reflect what the historical financial position, results of operations and cash flows of Tree.com would have been had Tree.com been a stand-alone company during the periods presented.

## MANAGEMENT OVERVIEW

Tree.com's Lending segment consists of online networks (principally LendingTree.com and GetSmart.com) and call centers that connect consumers and financial providers in the lending industry (the "lending networks"). Tree.com also originates, processes, approves and funds various residential real estate loans through Home Loan Center, which does business as LendingTree Loans in certain jurisdictions. The Home Loan Center and LendingTree Loans brand names are collectively referred to in this report as "LendingTree Loans". Additionally, Tree.com provides mortgage settlement services, including title search, appraisals, flood certification and closing transactions, under the name "LendingTree Settlement Services".

Tree.com's Real Estate segment primarily consists of a proprietary full-service real estate brokerage that operates in 14 U.S. markets, *www.RealEstate.com*, an online network that connects consumers with real estate brokerages around the country, iNest, an online network that matches buyers and builders of new homes, and Domania, an online lead provider for banks, mortgage lenders and real estate professionals (the "real estate networks").

### Sources of Revenue

Lending is generally compensated on a fee basis by the lenders who participate in its online lending networks, with LendingTree Loans principally deriving revenue from the origination and sale in the secondary markets of various residential real estate loans. Real Estate is generally compensated from subscription and cooperative brokerage fees paid by real estate professionals participating in its real estate networks and from commissions paid by consumers for its agents closing a real estate transaction on their behalf.

### Channels of Distribution; Marketing Costs

Tree.com markets and offers services directly to customers through branded websites allowing customers to transact directly with Tree.com in a convenient manner. Tree.com has made, and expects to continue to make, substantial investments in online and offline advertising to build its brands and drive traffic to its businesses.

Tree.com also pays to market and distribute services on third-party distribution channels, such as internet portals and search engines. In addition, some of the Tree.com Businesses manage affiliate marketing programs, pursuant to which the Tree.com businesses pay commissions and fees to third parties based on the number of leads generated or the revenue earned. These distribution channels might also offer their own products, as well as those of other third parties, that compete with those made available and offered by Tree.com businesses.

The cost of acquiring new customers through online and offline third-party distribution channels has increased, particularly in the case of online channels as internet commerce continues to grow and competition in the housing market increases. Tree.com expects sales and marketing expense as a percentage of revenue to continue to increase. Sales and marketing expense as a percentage of revenue increased to approximately 54% in 2007 from approximately 46% in 2006 and 42% in 2005.

### Access to Supply

Tree.com provides lending and real estate network partners with important customer acquisition channels. Tree.com believes that the ability of its partners to reach a large qualified audience through its brands and businesses is a significant benefit. Tree.com offers its customers the choice of multiple suppliers in one setting.

## Economic and Other Trends and Events; Industry Specific Factors

The credit and secondary mortgage markets have been experiencing unprecedented and continuing disruption, which had an adverse effect on Tree.com's business, financial condition and results of operations in 2007 and 2008. These conditions, coupled with adverse economic conditions and continuing declines in residential real estate prices generally, have resulted in decreased consumer demand for the lending and real estate offerings provided by Tree.com's networks and other businesses. Generally, increases in interest rates adversely affect the ability of the Lending Business and Network Lenders to close loans, while adverse economic trends limit the ability of the Lending Business and Network Lenders to offer home loans other than low margin conforming loans. The number of Network Lenders also decreased in 2007 and 2008 as many lenders exited the business due to the difficult economic conditions. Likewise, adverse economic trends have reduced the number of prospective home purchasers and home prices, which adversely affected Tree.com's Real Estate Business.

Tree.com recognized impairment charges of \$475.7 million related to the write-down of its Lending segment goodwill and intangible assets in the fourth quarter of 2007. These impairments resulted from Tree.com's reassessment of the likely future profitability of Lending in light of the persistent adverse mortgage market conditions and the operational strategies Tree.com has undertaken in response to these market realities. These adverse conditions include, among others, constrained liquidity, lender focus on low margin conforming loans, uncertainty as to the eventuality and timing of the return of higher margin mortgage products, the decline in real estate values and a high rate of delinquency for existing mortgages. Tree.com has significantly reduced its mortgage origination operations in response to these conditions which will reduce or slow its ability to react to possible improvements in the market. The impairments at the Lending segment occurred during the fourth quarter of 2007 as Tree.com completed an updated assessment of mortgage market conditions and the development and implementation of Lending's responsive operational strategies, and quantified these considerations in Lending's future forecasted results. In addition, in response to these persistent adverse mortgage market conditions, Tree.com restructured its operations in 2007 and recorded \$22.9 million in restructuring expense. This restructuring affected all departments and locations within Tree.com but were principally related to the mortgage origination operations.

In connection with the preparation of its consolidated financial statements as of and for the six months ended June 30, 2008, Tree.com has identified impairment charges of \$104.9 million related to the goodwill and intangible assets of its Lending segment and \$61.0 million related to the goodwill of its Real Estate segment. The impairments relate to Tree.com's most recent assessment of the likely profitability of its Lending and Real Estate segments in light of the persistent adverse mortgage and real estate market conditions.

These restructuring efforts described above may be insufficient to allow Tree.com to weather these continuing adverse market conditions. Continued protracted adverse market conditions may require additional restructuring of Tree.com's operations and could give rise to additional restructuring charges and additional impairment charges.

Revenue

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
Lending	\$ 294,626	(30)%	\$ 419,657	15%	\$ 363,800
Real Estate	51,752	(9)%	56,821	(1)%	57,555
<b>Total revenue</b>	<b>\$ 346,378</b>	<b>(27)%</b>	<b>\$ 476,478</b>	<b>13%</b>	<b>\$ 421,355</b>

Revenue in 2007 decreased \$130.1 million, or 27%, from 2006 primarily due to fewer loans sold into the secondary market, lower revenue per loan sold, fewer loans closed on the lending networks and an increase of \$13.5 million in the liability for losses on previously sold loans. Also contributing to the decrease in revenue is a decrease of \$13.1 million related to the Real Estate builder and broker networks, which decreased closings year over year. Lenders' narrowing focus on traditional mortgages in reaction to changes in the mortgage market contributed to lower close rates, a shift to lower margin products, and lower revenue per loan sold at LendingTree Loans. Revenue from home equity loans fell 58% due in part to an exit from certain home equity loans at LendingTree Loans and as a result of deteriorating market conditions. Additionally, purchase mortgage revenue and refinance mortgage revenue declined 21% and 16%, respectively. The dollar value of loans closed by network lenders and directly by LendingTree Loans in 2007 decreased 23% to \$24.9 billion. This includes refinance mortgages of \$13.0 billion, purchase mortgages of \$6.9 billion and home equity loans of \$4.2 billion. The dollar value of closed loans in 2006 was \$32.1 billion, including refinance mortgages of \$16.9 billion, purchase mortgages of \$8.3 billion and home equity loans of \$5.9 billion.

Partially offsetting the revenue decrease in 2007 is an increase of \$9.7 million in revenue from our company-owned brokerage business, which increased closings by 190%. The company-owned brokerage business began closing transactions in the first quarter of 2006 and now operates in fourteen metropolitan markets. Similar to closing loans in our own name, through LendingTree Loans, the company-owned brokerage enables Real Estate to capture a larger portion of the transaction revenue.

LendingTree Loans originates mortgage loans on property located throughout the United States, with no one location representing more than 10% of Tree.com's consolidated revenue for any periods presented. Revenue from loans originated for property located in California and Florida in the aggregate totaled approximately 10%, 14% and 14% of Tree.com's consolidated revenue for the years ended December 31, 2007, 2006 and 2005, respectively.

Revenue in 2006 increased \$55.1 million, or 13%, from 2005 driven primarily by higher revenue per loan, increased sales of loans into the secondary market and increased match fee revenue due to both growth in loan request form volume and higher prices on the networks. Increased revenue from settlement services also impacted revenue growth in 2006. Revenue from refinance mortgage, home equity loans and purchase mortgage loans grew 15%, 16% and 26%, respectively, from the prior year, despite the difficult market conditions in 2006. The dollar value of loans closed by exchange lenders and directly by LendingTree Loans in 2006 decreased 8% to \$32.1 billion. This includes refinance mortgages of \$16.9 billion, purchase mortgages of \$8.3 billion and home equity loans of \$5.9 billion. The dollar value of closed loans in 2005 was \$34.7 billion, including refinance mortgages of \$19.8 billion, purchase mortgages of \$8.0 billion and home equity loans of \$5.8 billion.

## Cost of revenue

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
Lending	\$47,264	(0)%	\$47,412	22%	\$38,904
Real Estate	25,850	0%	25,805	(6)%	27,438
<b>Cost of revenue</b>	<b>\$73,114</b>	<b>(0)%</b>	<b>\$73,217</b>	<b>10%</b>	<b>\$66,342</b>
As a percentage of total revenue	21%	574 bp	15%	(38) bp	16%
Gross margins	79%	(574) bp	85%	38 bp	84%
	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
Cost of revenue—Lending	\$47,264	(0)%	\$47,412	22%	\$38,904
As a percentage of Lending revenue	16%	474 bp	11%	60 bp	11%
Lending gross margins	84%	(474) bp	89%	(60) bp	89%
Cost of revenue—Real Estate	\$25,850	0%	\$25,805	(6)%	\$27,438
As a percentage of Real Estate revenue	50%	453 bp	45%	(226) bp	48%
Real Estate gross margins	50%	(453) bp	55%	226 bp	52%

Cost of revenue consists primarily of costs associated with unsuccessful loan origination attempts, compensation and other employee-related costs (including stock-based compensation) related to customer call centers, real estate network support staff and loan officers, as well as credit scoring fees, consumer incentive costs, real estate agent commissions and website network hosting and server fees.

Cost of revenue in 2007 was relatively unchanged from 2006 despite the significant revenue decline. The increase in cost of revenue as a percentage of total revenue is principally due to the reduced revenue discussed above, and a \$5.5 million increase in costs associated with unsuccessful loan originations. If a loan funds, these costs are deferred until the loan is sold to an investor and are included in revenue on a net basis. However, costs associated with all unsuccessful loan origination attempts are expensed as incurred. This increase was partially offset by a \$3.5 million decrease in compensation and other employee-related costs as Tree.com reduced its personnel costs associated with its customer call center, settlement services operation and portions of its loan processing department. Cost of revenue also increased as a percentage of revenue due to an increase of \$5.0 million in commission expense primarily related to the increase in closings at company-owned brokerage business, partially offset by a decrease of \$4.6 million in consumer incentive rebates related to decreased closings at the Real Estate builder and broker network businesses.

Cost of revenue in 2006 increased \$6.9 million from 2005 primarily due to increases of \$4.5 million in compensation and other employee-related costs, \$3.9 million in commission expense related to the company-owned brokerage business and \$3.0 million in direct costs associated with the growth in the settlement services business. These increases were partially offset by a decrease of \$2.8 million in consumer incentive rebates at Real Estate related to the builder and broker network businesses.

**Selling and marketing expense**

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
Lending	\$168,436	(14)%	\$195,245	32%	\$148,227
Real Estate	19,176	(19)%	23,665	(17)%	28,522
<b>Selling and marketing expense</b>	<b>\$187,612</b>	<b>(14)%</b>	<b>\$218,910</b>	<b>24%</b>	<b>\$176,749</b>
As a percentage of total revenue	54%	822 bp	46%	400 bp	42%
	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
Selling and marketing expense—Lending	\$168,436	(14)%	\$195,245	32%	\$148,227
As a percentage of Lending revenue	57%	1,064 bp	47%	578 bp	41%
Selling and marketing expense—Real Estate	\$ 19,176	(19)%	\$ 23,665	(17)%	\$ 28,522
As a percentage of Real Estate revenue	37%	(460) bp	42%	(791) bp	50%

Selling and marketing expense consists primarily of advertising and promotional expenditures, fees paid to affiliates and compensation and other employee-related costs (including stock-based compensation) for personnel engaged in the sales function. Advertising and promotional expenditures primarily include online marketing, as well as television, print and radio spending. Advertising production costs are expensed in the period the related ad is first run.

Selling and marketing expense in 2007 decreased \$31.3 million from 2006 primarily due to a decrease of \$27.2 million in advertising and promotional expenditures. In 2007, Tree.com experienced decreases in advertising of \$13.1 million, \$8.8 million and \$7.7 million associated with print, television and online advertising, respectively. The increase in selling and marketing expense as a percentage of revenue is due to decreased conversions of consumer leads into closed transactions. Tree.com anticipates that selling and marketing expense will continue to represent a high percentage of revenue as it continues to promote its brands both online and offline.

Selling and marketing expense in 2006 increased \$42.2 million from 2005 primarily due to an increase of \$37.7 million in advertising and promotional expenditures as Tree.com shifted to online marketing to drive lead volume in more difficult mortgage market conditions. Selling and marketing expense as a percentage of revenue increased due in part to lower close rates.

**General and administrative expense**

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
Lending	\$79,172	(18)%	\$ 96,888	12%	\$ 86,272
Real Estate	20,072	(10)%	22,396	43%	15,703
<b>General and administrative expense</b>	<b>\$99,244</b>	<b>(17)%</b>	<b>\$119,284</b>	<b>17%</b>	<b>\$101,975</b>
As a percentage of total revenue	29%	362 bp	25%	83 bp	24%
	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
General and administrative expense—Lending	\$79,172	(18)%	\$96,888	12%	\$86,272
As a percentage of Lending revenue	27%	378 bp	23%	(63) bp	24%
General and administrative expense—Real Estate	\$20,072	(10)%	\$22,396	43%	\$15,703
As a percentage of Real Estate revenue	39%	(63) bp	39%	1,213 bp	27%

General and administrative expense consists primarily of compensation and other employee-related costs (including stock-based compensation) for personnel engaged in finance, legal, tax, human resources and executive management functions, facilities and infrastructure costs and fees for professional services.

General and administrative expense in 2007 decreased \$20.0 million from 2006 primarily due to a decrease of \$13.2 million in compensation and other employee-related costs, due principally to a reduction in workforce, and a decrease of \$2.5 million in professional fees. Refer to "Restructuring expense" below for additional information on the reduction in workforce. Tree.com expects to incur increased costs related to the additional financial and legal requirements associated with being a separate public company, as well as increased non-cash compensation associated with the modification of existing stock-based compensation awards in connection with the spin-off and the grant of new awards post spin-off.

General and administrative expense in 2006 increased \$17.3 million from 2005 primarily due to an increase of \$11.1 million in compensation and other employee-related costs and an increase of \$2.8 million in facilities and infrastructure costs. The increase in compensation and other employee-related costs was due in part to an increase in headcount. General and administrative expense in 2006 and 2005 were negatively impacted by accruals of \$3.5 million and \$5.8 million, respectively, related to an adverse legal judgment.

Effective January 1, 2006, Tree.com adopted Statement of Financial Accounting Standards ("SFAS") No. 123 (revised 2004), "Share-Based Payment" ("SFAS 123R"), using the modified prospective transition method. There was no impact to the amount of stock-based compensation recorded in the consolidated statement of operations for the years ended December 31, 2006 and 2005 as a result of adopting SFAS 123R. Tree.com has been recognizing expense for all stock-based grants since its acquisition by IAC on August 8, 2003, in accordance with SFAS No. 123, "Accounting for Stock-Based Compensation" ("SFAS 123"). The majority of stock-based compensation expense is reflected in general and administrative expense. As of December 31, 2007, there was approximately \$10.2 million of unrecognized compensation cost, net of estimated forfeitures, related to all equity-based awards, which is expected to be recognized over a weighted average period of approximately 2.8 years.

**Product development**

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
Lending	\$ 9,720	(6)%	\$10,301	(5)%	\$10,803
Real Estate	5,271	8%	4,867	16%	4,198
<b>Product development</b>	<b>\$14,991</b>	<b>(1)%</b>	<b>\$15,168</b>	<b>1%</b>	<b>\$15,001</b>
As a percentage of total revenue	4%	114 bp	3%	(38) bp	4%
	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
Product development—Lending	\$9,720	(6)%	\$10,301	(5)%	\$10,803
As a percentage of Lending revenue	3%	84 bp	2%	(51) bp	3%
Product development—Real Estate	\$5,271	8%	\$ 4,867	16%	\$ 4,198
As a percentage of Real Estate revenue	10%	162 bp	9%	127 bp	7%

Product development expense consists primarily of compensation and other employee-related costs (including stock-based compensation) for personnel engaged in product development, which include costs related to the design, development, testing and enhancement of technology that are not capitalized.

Product development expense in 2007 decreased \$0.2 million from 2006, primarily due to decreased compensation and other employee-related costs.

Product development expense in 2006 increased \$0.2 million from 2005, primarily due to increased compensation and other employee-related costs related to modifying, maintaining and enhancing its technology and web-pages.

**Restructuring expense**

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
Lending	\$21,566	N/A	\$—	—	\$—
Real Estate	1,301	N/A	—	—	—
<b>Restructuring expense</b>	<b>\$22,867</b>	<b>N/A</b>	<b>\$—</b>	<b>—</b>	<b>\$—</b>
As a percentage of total revenue	7%	N/A	—	—	—

In response to persistent adverse mortgage market conditions, Tree.com completed a restructuring of its operations and recorded \$22.9 million in restructuring expense. As a part of this restructuring, approximately 800 positions across all departments and locations of its business were eliminated, however the restructuring principally related to the mortgage origination operations of LendingTree Loans. In addition, Tree.com ceased use of space in six of its facilities previously used by LendingTree Loans. In connection with this reduction in workforce and facilities restructuring, Tree.com recorded \$9.3 million in employee termination costs, \$5.0 million for liabilities associated with exiting the lease obligations, \$8.0 million for write-offs of fixed assets and other projects in progress and \$0.6 million for other items.

## Depreciation

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
Lending	\$ 8,905	(4)%	\$ 9,309	68%	\$5,540
Real Estate	1,153	(52)%	2,401	104%	1,180
<b>Depreciation</b>	<b>\$10,058</b>	<b>(14)%</b>	<b>\$11,710</b>	<b>74%</b>	<b>\$6,720</b>
As a percentage of total revenue	3%	45 bp	2%	86 bp	2%
	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
Depreciation—Lending	\$8,905	(4)%	\$9,309	68%	\$5,540
As a percentage of Lending revenue	3%	80 bp	2%	70 bp	2%
Depreciation—Real Estate	\$1,153	(52)%	\$2,401	104%	\$1,180
As a percentage of Real Estate revenue	2%	(200) bp	4%	218 bp	2%

Depreciation in 2007 decreased \$1.7 million from 2006 primarily due to the write-off of fixed assets referred to above and certain fixed assets becoming fully depreciated and decreased capital expenditures as Tree.com scaled back its spending in light of mortgage market conditions.

Depreciation in 2006 increased \$5.0 million from 2005 primarily due to the incremental depreciation associated with capital expenditures made throughout 2006 and 2005, partially offset by certain fixed assets becoming fully depreciated during the period.

## Operating Income Before Amortization

Operating Income Before Amortization is a Non-GAAP measure and is defined in "Tree.com's Principles of Financial Reporting".

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
Lending	\$(23,524)	NM	\$ 61,873	(22)%	\$ 78,883
Real Estate	(20,059)	7%	(21,507)	(27)%	(16,930)
<b>Operating Income Before Amortization</b>	<b>\$(43,583)</b>	<b>NM</b>	<b>\$ 40,366</b>	<b>(35)%</b>	<b>\$ 61,953</b>
As a percentage of total revenue	(13)%	NM	8%	(623) bp	15%
	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
Operating Income Before Amortization—Lending	\$(23,524)	NM	\$61,873	(22)%	\$78,883
As a percentage of Lending revenue	(8)%	NM	15%	(694) bp	22%
Operating Income Before Amortization—Real Estate	\$(20,059)	7%	\$(21,507)	(27)%	\$(16,930)
As a percentage of Real Estate revenue	(39)%	(91) bp	(38)%	(844) bp	(29)%

Operating Income Before Amortization in 2007 decreased \$83.9 million to a loss of \$43.6 million, declining at a faster rate than revenue due to higher costs per loan sold resulting from a shift to lowering margin products, lower close rates and stricter underwriting criteria, and \$22.9 million in restructuring costs, due in part to a reduction in workforce, partially offset by a decrease of \$31.3 million in selling and marketing expense. Operating Income Before Amortization was adversely

impacted by a \$20.2 million provision for loan losses in 2007, compared to \$6.6 million in 2006. The 2007 provision reflects the increased losses Tree.com is experiencing related to obligations to investors with respect to previously sold loans. Operating Income Before Amortization benefited by \$12.9 million due to the net impact of a favorable legal settlement and an increase in certain legal reserves.

Operating Income Before Amortization in 2006 decreased \$21.6 million from 2005, negatively impacted by increased marketing expenses, an increase of \$17.3 million in general and administrative expenses, \$11.1 million of which relates to an increase in compensation and other employee-related costs, and higher costs associated with the origination of loans sold into the secondary market.

### Operating (loss) income

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
Lending	\$ (512,584)	NM	\$ 44,091	(13)%	\$ 50,605
Real Estate	(27,856)	7%	(29,920)	5%	(31,351)
<b>Operating (loss) income</b>	<b>\$ (540,440)</b>	<b>NM</b>	<b>\$ 14,171</b>	<b>(26)%</b>	<b>\$ 19,254</b>
As a percentage of total revenue	(156)%	NM	3%	(160) bp	5%
	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
Operating (loss) income—Lending	\$ (512,584)	NM	\$ 44,091	(13)%	\$ 50,605
As a percentage of Lending revenue	(174)%	NM	11%	(340) bp	14%
Operating (loss)—Real Estate	\$ (27,856)	7%	\$ (29,920)	5%	\$ (31,351)
As a percentage of Real Estate revenue	(54)%	(117) bp	(53)%	181 bp	(54)%

Operating income decreased \$554.6 million to a loss of \$540.4 million in 2007, resulting primarily from a goodwill impairment charge of \$459.5 million which was recorded in the fourth quarter of 2007 in the accompanying consolidated statements of operations as a component of operating income. The write-down was determined by comparing the fair value of the business and the implied value of the goodwill with the carrying amounts on the balance sheet. In addition, an impairment charge of \$16.2 million was recorded in the fourth quarter of 2007 in connection with the write-down of certain intangible assets which has been included in amortization of intangibles in the accompanying consolidated statement of operations. These impairments were identified in connection with Tree.com's annual impairment assessment which is performed as of October 1<sup>st</sup>. Also contributing to the increase in operating loss was the decrease in Operating Income Before Amortization described above and an increase in non-cash compensation expense.

As discussed above in the management overview, in response to adverse mortgage market conditions, Tree.com has significantly reduced its mortgage origination operations, incurred substantial restructuring charges, recorded significant provisions for loan losses and recorded substantial impairment charges. Given that overall conditions in the credit markets and the mortgage market continue to evolve rapidly, no assurances can be made that the changes Tree.com has undertaken will be sufficient or that Tree.com will not be required to take additional impairment or restructuring charges. In addition, these actions will reduce or slow its ability to react to possible improvements in the market.

Operating income in 2006 decreased \$5.1 million from 2005 primarily due to the decrease in Operating Income Before Amortization described above, partially offset by an \$11.3 million decrease in amortization of intangibles resulting from certain intangible assets being fully amortized in 2005 and 2006, as well as a \$5.2 million decrease in non-cash compensation expense. The decrease in non-cash

compensation expense is primarily due to the transfer of Tree.com's founder and Chief Executive Officer to IAC, effective January 1, 2006.

### ***Income tax provision***

In 2007, Tree.com recorded an income tax provision of \$10.2 million, despite a loss from operations, due principally to the impairment of goodwill that is largely non-deductible for income tax purposes and an increase in the valuation allowance on deferred tax assets. In light of the reassessment of the likely future profitability of Tree.com, it has been determined that it is not more likely than not that deferred tax assets at December 31, 2007 will be realized. In 2006, Tree.com recorded a tax provision of \$5.0 million which represents an effective tax rate of 37%. The 2006 tax rate is higher than the federal statutory rate of 35% due principally to state and local income taxes. In 2005, Tree.com recorded a tax provision of \$11.4 million which represents an effective tax rate of 66%. The 2005 tax rate is higher than the federal statutory rate of 35% due principally to state and local income taxes which included an increase in net deferred tax liabilities due to a change in the effective state tax rate and an increase in the valuation allowance on deferred tax assets related to state net operating losses.

Tree.com adopted the provisions of FASB Interpretation No. 48, "Accounting for Uncertainty in Income Taxes—an interpretation of FASB Statement No. 109" ("FIN 48") effective January 1, 2007. There was no effect to Tree.com's accumulated deficit as a result of the adoption. As of January 1, 2007 and December 31, 2007, Tree.com had unrecognized tax benefits of approximately \$0.5 million and \$5.8 million, respectively, which included accrued interest at December 31, 2007 of \$1.4 million.

By virtue of the previously filed separate company and consolidated tax returns with IAC, Tree.com is routinely under audit by federal, state and local authorities in the area of income tax. These audits include questioning the timing and the amount of deductions and the allocation of income among various tax jurisdictions. Income taxes payable include amounts considered sufficient to pay assessments that may result from examination of prior year returns; however, the amount paid upon resolution of issues raised may differ from the amount provided. Differences between the reserves for tax contingencies and the amounts owed by Tree.com are recorded in the period they become known.

The Internal Revenue Service ("IRS") is currently examining the IAC consolidated tax returns for the years ended December 31, 2001 through 2003, which includes the operations of Tree.com from August 8, 2003, its date of acquisition by IAC. The statute of limitations for these years has been extended to December 31, 2008. Tax filings in various state, local and foreign jurisdictions are currently under examinations, the most significant of which are Florida, New York state and New York City, for various tax years after December 31, 2001. These examinations are expected to be completed by late 2008. Tree.com believes that it is reasonably possible that its unrecognized tax benefits could decrease by approximately \$2.6 million within twelve months of the current reporting date due to the reversal of deductible temporary differences which will result in a corresponding increase in net deferred tax liabilities. An estimate of other changes in unrecognized tax benefits cannot be made, but are not expected to be significant.

Under the terms of the tax sharing agreement, which will be executed in connection with the spin-off, IAC will generally retain the liability related to federal and state tax returns filed on a consolidated or unitary basis for all periods prior to the spin-off.

## FINANCIAL POSITION, LIQUIDITY AND CAPITAL RESOURCES

As of December 31, 2007, Tree.com had \$60.9 million of cash and cash equivalents and restricted cash and cash equivalents.

Net cash provided by operating activities was \$233.0 million and \$74.9 million in 2007 and 2006, respectively. The increase of \$158.1 million in net cash provided by operating activities primarily reflects an increase in net proceeds from the sale of loans held for sale of \$153.2 million.

Net cash used in investing activities in 2007 and 2006 of \$10.9 million and \$16.4 million, respectively, primarily resulted from capital expenditures of \$9.4 million and \$13.3 million, respectively.

Net cash used in financing activities in 2007 of \$275.6 million was primarily due to net payments under various lines of credit, primarily warehouse lines, of \$259.0 million at LendingTree Loans, payments on notes payable and capital lease obligations of \$11.7 million and cash transfers of \$7.1 million to IAC. The net payments under various lines of credit, primarily warehouse lines, is directly related to the net proceeds from sales of loans held for sale included within cash flows from operating activities. The cash transfers to IAC relate primarily to the transfer of Tree.com's excess cash to IAC in connection with IAC's centrally managed U.S. treasury function. Net cash used in financing activities in 2006 of \$45.9 million was primarily due to net payments under various lines of credit, primarily warehouse lines, of \$23.8 million at LendingTree Loans, payments on notes payable and capital lease obligations of \$11.5 million and cash transfers of \$3.9 million to IAC.

As of December 31, 2007, LendingTree Loans had committed lines of credit, primarily warehouse lines, totaling \$550 million, of which \$500 million expired on January 31, 2008, and \$50 million expires on October 31, 2008, and an uncommitted line of \$150 million. Borrowings under these lines of credit are used to fund, and are secured by, consumer residential loans that are held for sale. Loans under these lines of credit are repaid from proceeds from the sales of loans held for sale by LendingTree Loans. The interest rate under these lines of credit is 30-day LIBOR plus 75 to 100 basis points, but may be higher under certain circumstances. The committed line that expired on January 31, 2008 was subsequently renewed at a reduced size of \$50 million and will expire on the earlier of sixty days prior to the spin-off or January 24, 2009 and can be cancelled at the option of the lender without default upon sixty days notice. On June 25, 2008, certain terms of the warehouse line of credit were waived in order for the line of credit not to expire 60 days prior to the spin-off. However, if the lender determines at any time prior to January 24, 2009 the spin-off materially and adversely affects Tree.com, the lender reserves the right to deem the line of credit expired prior to January 24, 2009. The interest rate under this line of credit increased at the renewal date to 30-day LIBOR plus 140 basis points, but may be higher under certain circumstances. The \$50 million committed line of credit that expires on January 24, 2009 and the \$150 million uncommitted line are provided by the same lender. The \$50 million committed line that expires on October 31, 2008 is provided by one other lender. LendingTree Loans is highly dependent on the availability of credit to finance its operations. Its inability to renew or replace existing facilities upon expiration or termination, which could be impacted by continuing disruptions in the credit market, would adversely impact its results of operations and financial condition. At December 31, 2007 there was \$79.4 million outstanding under the committed lines of credit. Under the terms of the committed lines of credit, LendingTree Loans is required to maintain various financial and other covenants. These financial covenants include, but are not limited to, maintaining (i) minimum levels of tangible net worth, cash on hand with a certain lender and liquid assets, (ii) a maximum ratio of total liabilities to net worth and (iii) positive pre-tax net income on a quarterly basis. During the fourth quarter, LendingTree Loans was not in compliance with the quarterly positive pre-tax net income covenant set forth in one of its lines of credit. LendingTree Loans received a waiver of this covenant breach on February 8, 2008. The breach and the subsequent waiver did not have an impact on LendingTree Loans' other lines of credit and Tree.com does not expect it to have an impact on LendingTree Loans' ability to secure lines of credit in the future. Borrowings under all of LendingTree Loans' lines of credit are non-recourse to Tree.com.

**CONTRACTUAL OBLIGATIONS AND COMMERCIAL COMMITMENTS**

Contractual Obligations	Payments Due by Period				
	Total	Less Than 1 Year	1-3 Years	3-5 Years	More Than 5 Years
	(In thousands)				
Short-term and current portion of long-term obligations	\$ 99,350	\$ 99,350	\$ —	\$ —	\$ —
Capital lease obligations	272	272	—	—	—
Purchase obligations(a)	330	330	—	—	—
Operating leases	27,633	7,168	9,674	4,983	5,808
<b>Total contractual cash obligations</b>	<b>\$ 127,585</b>	<b>\$ 107,120</b>	<b>\$ 9,674</b>	<b>\$ 4,983</b>	<b>\$ 5,808</b>

(a) The purchase obligations primarily relate to marketing event contracts in 2008.

Other Commercial Commitments*	Amount of Commitment Expiration Per Period				
	Total Amounts Committed	Less Than 1 Year	1-3 Years	3-5 Years	More Than 5 Years
	(In thousands)				
Surety bonds and letters of credit	\$ 8,182	\$ 7,477	\$ 705	\$ —	\$ —

\* Commercial commitments are funding commitments that could potentially require performance in the event of demands by third parties or contingent events, such as under lines of credit extended or under guarantees of debt.

**Off-Balance Sheet Arrangements**

Other than the items described above, Tree.com does not have any off-balance sheet arrangements as of December 31, 2007.

Revenue

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
Lending	\$ 61,811	(36)%	\$ 96,768
Real Estate	8,382	(37)%	13,231
<b>Total revenue</b>	<b>\$ 70,193</b>	<b>(36)%</b>	<b>\$ 109,999</b>

Revenue in 2008 decreased \$39.8 million, or 36%, from 2007 primarily due to fewer loan originations and sales into the secondary market and fewer loans closed on the lending networks. Also contributing to the decrease in revenue is a decrease of \$3.9 million related to the Real Estate builder and broker networks, which experienced decreased closings year over year, as well as the absence of revenue from the agent network business which ceased operations in December 2007. Lenders' continued narrow focus on traditional mortgage products contributed to lower close rates and a shift to lower margin products as compared to the prior year. The dollar value of loans closed by network lenders and directly by LendingTree Loans in 2008 decreased 42% to \$4.3 billion. This includes refinance mortgages of \$2.7 billion, purchase mortgages of \$1.0 billion and home equity loans of \$0.5 billion. The dollar value of loans closed by network lenders in 2007 was \$7.4 billion, including refinance mortgages of \$4.1 billion, purchase mortgages of \$1.8 billion and home equity loans of \$1.3 billion. Revenue from all home loan offerings declined with home equity loans, purchase mortgage revenue and refinance mortgage revenue declining 75%, 38% and 22%, respectively.

Partially offsetting the revenue decrease from fewer loans sold in 2008 is higher revenue per loan sold and an increase of \$1.2 million in revenue from Tree.com's company-owned brokerage business, which increased closings by 40%. The company-owned brokerage business began closing transactions in the first quarter of 2006 and now operates in fourteen markets. Similar to closing loans through LendingTree Loans, the company-owned brokerage enables Real Estate to capture a larger portion of the transaction revenue.

LendingTree Loans originates mortgage loans on property located throughout the United States, with no one location representing more than 10% of Tree.com's consolidated revenue for any periods presented. Revenue from loans originated for property in California and Florida in the aggregate totaled approximately 8% and 11% of Tree.com's consolidated revenue for the three months ended March 31, 2008 and 2007, respectively.

## Cost of revenue

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
Lending	\$12,796	(11)%	\$14,312
Real Estate	4,970	(20)%	6,184
<b>Cost of revenue</b>	<b>\$17,766</b>	<b>(13)%</b>	<b>\$20,496</b>
As a percentage of total revenue	25%	668 bp	19%
Gross margins	75%	(668) bp	81%

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
Cost of revenue—Lending	\$12,796	(11)%	\$14,312
As a percentage of Lending revenue	21%	591 bp	15%
Lending gross margins	79%	(591) bp	85%
Cost of revenue—Real Estate	\$4,970	(20)%	\$6,184
As a percentage of Real Estate revenue	59%	1,256 bp	47%
Real Estate gross margins	41%	(1,256) bp	53%

Cost of revenue consists primarily of costs associated with loan originations, compensation and other employee-related costs (including stock-based compensation) related to customer call centers, real estate network support staff and loan officers, as well as credit scoring fees, consumer incentive costs, real estate agent commissions and website network hosting and server fees.

Cost of revenue in 2008 decreased \$2.7 million from 2007 primarily due to decreases of \$1.5 million in consumer incentive rebates related to decreased closings at the Real Estate builder and broker network businesses, \$1.2 million in direct costs associated with the settlement services business and \$1.2 million in compensation and other employee-related costs. Offsetting these decreases in cost of revenue were increases of \$0.6 million in costs associated with loan originations and \$0.5 million in commission expense primarily related to the increase in closings at company-owned brokerage business. The decrease in compensation and other employee-related costs is primarily due to reduced personnel costs associated with Tree.com's customer call center, settlement services operation and portions of its loan processing department. Included in cost of revenue in 2008 is the impact of Tree.com's adoption of Statement of Financial Accounting Standards ("SFAS") No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities Including an amendment of FASB Statement No. 115" ("SFAS 159"). Upon adoption of SFAS 159, Tree.com elected to account for all loans held for sale issued after January 1, 2008 at fair value. Electing the fair value option requires loan origination fees and costs to be recorded in earnings as incurred instead of being deferred until the loan is sold as in prior year periods. In 2008, all loan origination costs are recognized in cost of revenue. Prior to 2008, Tree.com applied the provisions of SFAS 91, "Accounting for Nonrefundable Fees and Costs Associated with Originating or Acquiring Loans and Initial Direct Costs of Leases", effectively deferring loan origination fees and costs until the underlying loan was sold. Upon sale of the loan, the origination fees and costs were recognized as a component of the gain on sale of the loan in revenue.

## Selling and marketing expense

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
Lending	\$31,028	(39)%	\$50,795
Real Estate	2,169	(62)%	5,683
<b>Selling and marketing expense</b>	<b>\$33,197</b>	<b>(41)%</b>	<b>\$56,478</b>
As a percentage of total revenue	47%	(405) bp	51%
	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
Selling and marketing expense—Lending	\$31,028	(39)%	\$50,795
As a percentage of Lending revenue	50%	(229) bp	52%
Selling and marketing expense—Real Estate	\$2,169	(62)%	\$5,683
As a percentage of Real Estate revenue	26%	(1,708) bp	43%

Selling and marketing expense consists primarily of advertising and promotional expenditures, fees paid to affiliates and compensation and other employee-related costs (including stock-based compensation) for personnel engaged in the sales function. Advertising and promotional expenditures primarily include online marketing, as well as television, print and radio spending. Advertising production costs are expensed in the period the related ad is first run.

Selling and marketing expense in 2008 decreased \$23.3 million from 2007 primarily due to a decrease of \$22.3 million in advertising and promotional expenditures. In 2008, Tree.com experienced decreases in advertising of \$11.9 million, \$6.1 million and \$4.1 million associated with online marketing, print and television advertising, respectively. Tree.com anticipates that selling and marketing expense will continue to represent a high percentage of revenue as it continues to promote its brands both online and offline.

## General and administrative expense

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
Lending	\$16,454	(31)%	\$23,869
Real Estate	4,310	(30)%	6,177
<b>General and administrative expense</b>	<b>\$20,764</b>	<b>(31)%</b>	<b>\$30,046</b>
As a percentage of total revenue	30%	227 bp	27%
	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
General and administrative expense—Lending	\$16,454	(31)%	\$23,869
As a percentage of Lending revenue	27%	195 bp	25%
General and administrative expense—Real Estate	\$4,310	(30)%	\$6,177
As a percentage of Real Estate revenue	51%	473 bp	47%

General and administrative expense consists primarily of compensation and other employee-related costs (including stock-based compensation) for personnel engaged in finance, legal, tax, human resources and executive management functions, facilities and infrastructure costs and fees for professional services.

General and administrative expense in 2008 decreased \$9.3 million from 2007 primarily due to a decrease of \$7.5 million in compensation and other employee-related costs, due principally to a reduction in workforce that occurred in 2007, subsequent to the first quarter. Offsetting this decrease in general and administrative expense is a charge of approximately \$1.4 million associated with legal and regulatory costs. Tree.com expects to incur increased costs related to the additional financial and legal requirements associated with being a separate public company, as well as increased non-cash compensation associated with the modification of existing stock-based compensation awards in connection with the spin-off and the grant of new awards in connection with and subsequent to the spin-off.

General and administrative expense includes non-cash compensation expense of \$0.5 million in 2008 compared with \$1.0 million in 2007. The decrease in non-cash compensation expense is primarily due to a reduction in workforce that occurred in 2007, subsequent to the first quarter and various equity grants fully vesting throughout 2007. As of March 31, 2008, there was approximately \$8.2 million of unrecognized compensation cost, net of estimated forfeitures, related to all equity-based awards, which is currently expected to be recognized over a weighted average period of approximately 2.7 years (exclusive of the impact of the modification related to the spin-off, which consists of the accelerated vesting of certain restricted stock units and the modification of vested stock options).

### Product development

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
Lending	\$1,454	(47)%	\$2,766
Real Estate	655	(56)%	1,504
<b>Product development</b>	<b>\$2,109</b>	<b>(51)%</b>	<b>\$4,270</b>
As a percentage of total revenue	3%	(88) bp	4%

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
Product development—Lending	\$1,454	(47)%	\$2,766
As a percentage of Lending revenue	2%	(51) bp	3%
Product development—Real Estate	\$655	(56)%	\$1,504
As a percentage of Real Estate revenue	8%	(356) bp	11%

Product development expense consists primarily of compensation and other employee-related costs (including stock-based compensation) for personnel engaged in product development, which include costs related to the design, development, testing and enhancement of technology that are not capitalized.

Product development expense in 2008 decreased \$2.2 million from 2007, due to decreased compensation and other employee-related costs associated with a reduction in workforce that occurred in 2007, subsequent to the first quarter.

## Depreciation

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
Lending	\$1,366	(46)%	\$2,530
Real Estate	409	32%	309
<b>Depreciation</b>	<b>\$1,775</b>	<b>(37)%</b>	<b>\$2,839</b>
As a percentage of total revenue	3%	(5) bp	3%

  

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
Depreciation—Lending	\$1,366	(46)%	\$2,530
As a percentage of Lending revenue	2%	(40) bp	3%
Depreciation—Real Estate	\$409	32%	\$309
As a percentage of Real Estate revenue	5%	255 bp	2%

Depreciation in 2008 decreased \$1.1 million from 2007 primarily due to certain fixed assets becoming fully depreciated and decreased capital expenditures made in 2008 and 2007 and the write-off of certain assets subsequent to the first quarter of 2007 as Tree.com scaled back its operations in response to mortgage market conditions.

## Operating Income Before Amortization

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
Lending	\$(1,298)	NM	\$3,239
Real Estate	(3,966)	37%	(6,248)
<b>Operating Income Before Amortization</b>	<b>\$(5,264)</b>	<b>(75)%</b>	<b>\$(3,009)</b>
As a percentage of total revenue	(7)%	(476) bp	(3)%

  

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
Operating Income Before Amortization—Lending	\$(1,298)	NM	\$3,239
As a percentage of Lending revenue	(2)%	NM	3%
Operating Income Before Amortization—Real Estate	\$(3,966)	37%	\$(6,248)
As a percentage of Real Estate revenue	(47)%	(9) bp	(47)%

Operating Income Before Amortization in 2008 decreased \$2.3 million to a loss of \$5.3 million, declining at a faster rate than revenue due to higher costs per loan sold resulting from lower close rates and stricter underwriting criteria, partially offset by decreases of \$23.3 million in selling and marketing expense and \$9.3 million in general and administrative expense. Operating Income Before Amortization was adversely impacted in 2008 by charges, aggregating \$3.1 million, associated with legal and regulatory costs and restructuring initiatives.

## Operating loss

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
Lending	\$(4,249)	(980)%	\$(393)
Real Estate	(5,239)	35%	(8,011)
Operating loss	\$(9,488)	(13)%	\$(8,404)
As a percentage of total revenue	(14)%	(588) bp	(8)%

  

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
Operating loss—Lending	\$(4,249)	(980)%	\$(393)
As a percentage of Lending revenue	(7)%	(647) bp	(0)%
Operating loss—Real Estate	\$(5,239)	35%	\$(8,011)
As a percentage of Real Estate revenue	(63)%	(195) bp	(61)%

Operating loss in 2008 increased \$1.1 million from 2007, primarily due to the decrease in Operating Income Before Amortization described above, partially offset by a \$0.6 million decrease in both non-cash compensation expense and amortization of intangibles.

## Income tax provision

For the three months ended March 31, 2008, Tree.com recorded a tax provision of \$0.2 million despite a loss from operations, due principally to an increase in valuation allowance on deferred tax assets. For the three months ended March 31, 2007, Tree.com recorded a tax benefit of \$3.5 million on a pre-tax loss of \$8.6 million, which represents an effective tax rate of 41%. This tax benefit is higher than the federal statutory rate of 35% due principally to state taxes.

As of December 31, 2007 and March 31, 2008, Tree.com had unrecognized tax benefits of approximately \$4.4 million. Included in unrecognized tax benefits at March 31, 2008 is approximately \$3.6 million for tax positions included in IAC's consolidated tax return filings that will remain a liability of IAC after the spin-off. Tree.com recognizes interest and, if applicable, penalties related to unrecognized tax benefits in income tax expense. There were no material accruals for interest for 2008. At March 31, 2008, Tree.com has accrued \$1.5 million for the payment of interest. There are no material accruals for penalties.

By virtue of previously filed separate company and consolidated tax returns with IAC, Tree.com is routinely under audit by federal, state, local and foreign authorities in the area of income tax. These audits include questioning the timing and the amount of deductions and the allocation of income among various tax jurisdictions. Income taxes payable include amounts considered sufficient to pay assessments that may result from examination of prior year returns; however, the amount paid upon resolution of issues raised may differ from the amount provided. Differences between the reserves for tax contingencies and the amounts owed by Tree.com are recorded in the period they become known. Tree.com believes that it is reasonably possible that its unrecognized tax benefits could decrease by approximately \$2.7 million within twelve months of the current reporting date due to the reversal of deductible temporary differences which will result in a corresponding increase in net deferred tax liabilities. An estimate of other changes in unrecognized tax benefits cannot be made, but are not expected to be significant.

Under the terms of the tax sharing agreement, which will be executed in connection with the spin-off, IAC will generally retain the liability related to federal and state returns filed on a consolidated or unitary basis for all periods prior to the spin-off.

## FINANCIAL POSITION, LIQUIDITY AND CAPITAL RESOURCES

As of March 31, 2008, Tree.com had \$55.0 million of cash and cash equivalents and restricted cash and cash equivalents.

Net cash used in operating activities improved by \$69.0 million to \$5.6 million in 2008 from \$74.6 million in 2007. The improvement is primarily due to a \$64.2 million increase in loans held for sale in 2007 compared to \$4.4 million in 2008 reflecting significantly higher net loan originations in 2007. Also impacting net cash used in operations is an increase in accounts payable as Tree.com aggressively managed working capital in the first quarter of 2008.

Net cash used in investing activities in 2008 of \$16.0 million primarily resulted from the payment of contingent consideration associated with the Home Loan Center acquisition and capital expenditures of \$1.5 million. Net cash used in investing activities in 2007 of \$3.7 million primarily resulted from capital expenditures.

Net cash provided by financing activities in 2008 of \$28.2 million was primarily due to cash transfers of \$21.8 million from IAC, capital contributions of \$14.5 million from IAC and a decrease of \$12.5 million in restricted cash, partially offset by payments on notes payable and capital lease obligations of \$20.0 million. The cash transfers from IAC relate to IAC's centrally managed U.S. treasury function. Net cash provided by financing activities in 2007 of \$69.6 million was primarily due to net borrowings under various lines of credit of \$62.4 million at LendingTree Loans and payments on notes payable and capital lease obligations of \$10.4 million, partially offset by cash transfers of \$18.0 million from IAC. The net borrowings under various lines of credit in 2007 is related to the increase in loans held for sale included within cash flow from operations.

As of March 31, 2008, LendingTree Loans had committed lines of credit totaling \$100 million, of which \$50 million expires on October 31, 2008, and another \$50 million is set to expire on the earlier of sixty days prior to the spin-offs or January 24, 2009, and an uncommitted line of credit of \$150 million. The committed line of credit that expires sixty days prior to the spin-offs or January 24, 2009 can be cancelled at the option of the lender without default upon sixty days notice. The \$50 million committed line of credit that expires on January 24, 2009 and the \$150 million uncommitted line are provided by the same lender. The \$50 million committed line that expires on October 31, 2008 is provided by one other lender. Borrowings under these lines of credit are used to fund, and are secured by, consumer residential loans that are held for sale. Loans under these lines of credit are repaid from proceeds from the sales of loans held for sale by LendingTree Loans. The interest rate under these lines of credit is 30-day LIBOR plus 75 to 140 basis points, but may be higher under certain circumstances. At March 31, 2008, there was \$78.7 million outstanding under the committed lines of credit. Under the terms of the committed lines of credit, LendingTree Loans is required to maintain various financial and other covenants. These financial covenants include, but are not limited to, maintaining (i) minimum levels of tangible net worth, cash on hand with a certain lender and liquid assets, (ii) a maximum ratio of total liabilities to net worth and (iii) positive pre-tax net income on a quarterly basis. During the first quarter of 2008, LendingTree Loans was in compliance with all covenants. Borrowings under all of LendingTree Loans' lines of credit are non-recourse to Tree.com.

Tree.com anticipates that it will need to make capital and other expenditures in connection with the development and expansion of its overall operations.

Tree.com has considered its anticipated operating cash flows in 2008, cash and cash equivalents, current borrowing capacity under lines of credit, its expected capitalization upon completion of the spin-off and access to capital markets, subject to restrictions in the tax sharing agreement, and believes that these are sufficient to fund its operating needs, including debt requirements, commitments and contingencies and capital and investing commitments for the foreseeable future. LendingTree Loans is highly dependent on the availability of credit to finance its operations. Its inability to renew or replace

existing facilities upon expiration or termination, which could be impacted by continuing disruptions in the credit market, would adversely impact its results of operations and financial condition. In connection with the completion of the spin-off, intercompany payable balances will be extinguished. It is expected that IAC will transfer to Tree.com an amount of cash that will be sufficient for its initial capitalization.

## CONTRACTUAL OBLIGATIONS AND COMMERCIAL COMMITMENTS

Contractual Obligations	Payments Due by Period				
	Total	Less Than 1 Year	1-3 Years	3-5 Years	More Than 5 Years
(In thousands)					
Short-term and current portion of long-term obligations	\$ 78,739	\$ 78,739	\$ —	\$ —	\$ —
Capital lease obligations	15	15	—	—	—
Purchase obligations(a)	587	587	—	—	—
Operating leases	27,724	7,395	8,723	5,669	5,937
<b>Total contractual cash obligations</b>	<b>\$ 107,065</b>	<b>\$ 86,736</b>	<b>\$ 8,723</b>	<b>\$ 5,669</b>	<b>\$ 5,937</b>

(a) The purchase obligations primarily relate to marketing event contracts in 2008.

Tree.com reports Operating Income Before Amortization as a supplemental measure to generally accepted accounting principles ("GAAP"). This measure is one of the primary metrics by which Tree.com evaluates the performance of its businesses, on which its internal budgets are based and by which management is compensated. Tree.com believes that investors should have access to the same set of tools that it uses in analyzing its results. This non-GAAP measure should be considered in addition to results prepared in accordance with GAAP, but should not be considered a substitute for or superior to GAAP results. Tree.com provides and encourages investors to examine the reconciling adjustments between the GAAP and non-GAAP measure which are discussed below.

**Definition of Tree.com's Non-GAAP Measure**

*Operating Income Before Amortization* is defined as operating income excluding, if applicable: (1) non-cash compensation expense, (2) amortization of intangibles and goodwill impairment, (3) pro forma adjustments for significant acquisitions, and (4) one-time items. Tree.com believes this measure is useful to investors because it represents the operating results from the Tree.com Businesses, taking into account depreciation, which Tree.com believes is an ongoing cost of doing business, but excluding the effects of any other non-cash expenses. Operating Income Before Amortization has certain limitations in that it does not take into account the impact to Tree.com's statement of operations of certain expenses, including non-cash compensation, and acquisition-related accounting. Tree.com endeavors to compensate for the limitations of the non-GAAP measure presented by also providing the comparable GAAP measure with equal or greater prominence and descriptions of the reconciling items, including quantifying such items, to derive the non-GAAP measure.

**Pro Forma Results**

Tree.com will only present Operating Income Before Amortization on a pro forma basis if it views a particular transaction as significant in size or transformational in nature. For the periods presented in this report, there are no transactions that Tree.com has included on a pro forma basis.

**One-Time Items**

Operating Income Before Amortization is presented before one-time items, if applicable. These items are truly one-time in nature and non-recurring, infrequent or unusual, and have not occurred in the past two years or are not expected to recur in the next two years, in accordance with SEC rules. For the periods presented in this report, there are no one-time items.

**Non-Cash Expenses That Are Excluded From Tree.com's Non-GAAP Measure**

*Non-cash compensation* expense consists principally of expense associated with the grants, including unvested grants assumed in acquisitions, of restricted stock, restricted stock units and stock options. These expenses are not paid in cash, and Tree.com will include the related shares in its future calculations of fully diluted shares outstanding. Upon vesting of restricted stock and restricted stock units and the exercise of certain stock options, the awards will be settled, at Tree.com's discretion, on a net basis, with Tree.com remitting the required tax withholding amount from its current funds.

*Amortization of intangibles* is a non-cash expense relating primarily to acquisitions. At the time of an acquisition, the intangible assets of the acquired company, such as purchase agreements, technology and customer relationships, are valued and amortized over their estimated lives. Tree.com believes that since intangibles represent costs incurred by the acquired company to build value prior to acquisition, they were part of transaction costs.

## Reconciliation of Operating Income Before Amortization

For a reconciliation of Operating Income Before Amortization to operating (loss) income for Tree.com's operating segments and to net (loss) income in total for the years ended December 31, 2007, 2006 and 2005, see Note 8 to the consolidated financial statements. For a reconciliation of Operating Income Before Amortization to operating loss for Tree.com's operating segments and to net loss for the three months ended March 31, 2008 and 2007, see Note 5 to the unaudited interim financial statements.

## Critical Accounting Policies and Estimates

The following disclosure is provided to supplement the descriptions of Tree.com's accounting policies contained in Note 2 to the consolidated financial statements in regard to significant areas of judgment. Tree.com's management is required to make certain estimates and assumptions during the preparation of its consolidated financial statements in accordance with GAAP. These estimates and assumptions impact the reported amount of assets and liabilities and disclosures of contingent assets and liabilities as of the date of the consolidated financial statements. They also impact the reported amount of net income during any period. Actual results could differ from those estimates. Because of the size of the financial statement elements to which they relate, some of Tree.com's accounting policies and estimates have a more significant impact on its consolidated financial statements than others. What follows is a discussion of some of Tree.com's more significant accounting policies and estimates.

### Recoverability of Long-Lived Assets

Tree.com reviews the carrying value of all long-lived assets, primarily property and equipment and definite-lived intangible assets, for impairment whenever events or changes in circumstances indicate that the carrying value of an asset may be impaired. In accordance with SFAS 144, "Accounting for the Impairment or Disposal of Long-Lived Assets" ("SFAS 144"), impairment is considered to have occurred whenever the carrying value of a long-lived asset exceeds the sum of the undiscounted cash flows that is expected to result from the use and eventual disposition of the asset. The determination of cash flows is based upon assumptions that may not occur. The value of long-lived assets that is subject to assessment for impairment in accordance with SFAS 144 is \$41.3 million at December 31, 2007.

### Recoverability of Goodwill and Indefinite-Lived Intangible Assets

Goodwill impairment is determined using a two-step process. The first step of the process is to compare the fair value of a reporting unit with its carrying amount, including goodwill. In performing the first step, Tree.com determines the fair value of its reporting units by using a discounted cash flow ("DCF") analysis. Determining fair value using a DCF analysis requires the exercise of significant judgments, including judgments about appropriate discount rates, perpetual growth rates and the amount and timing of expected future cash flows. If the fair value of a reporting unit exceeds its carrying amount, goodwill of the reporting unit is not impaired and the second step of the impairment test is not required. If the carrying amount of a reporting unit exceeds its fair value, the second step of the goodwill impairment test is required to be performed to measure the amount of impairment, if any. The second step of the goodwill impairment test compares the implied fair value of the reporting unit's goodwill with the carrying amount of that goodwill. The implied fair value of goodwill is determined in the same manner as the amount of goodwill recognized in a business combination. If the carrying amount of the reporting unit's goodwill exceeds the implied fair value of that goodwill, an impairment loss is recognized in an amount equal to that excess.

The impairment test for indefinite-lived intangible assets involves a comparison of the estimated fair value of the intangible asset with its carrying value. If the carrying value of the indefinite-lived

intangible asset exceeds its fair value, an impairment loss is recognized in an amount equal to that excess. The estimates of fair value of indefinite-lived intangible assets are determined using a DCF valuation analysis that employs a "relief from royalty" methodology in estimating the fair value of its trade names and trademarks. Significant judgments inherent in this analysis include the determination of royalty rates, discount rates and the terminal growth rates.

Goodwill and indefinite-lived intangible assets, primarily trade names and trademarks, are tested annually for impairment as of October 1 or earlier upon the occurrence of certain events or substantive changes in circumstances. The annual assessment for 2007 identified impairment charges for the Lending reporting unit as more fully described above in "Results of Operations for the Years Ended December 31, 2007, 2006 and 2005." Tree.com's reporting units are currently operating in dynamic and challenged industry segments. To illustrate the magnitude of potential impairment charges relative to future changes in estimated fair value, had the estimated fair value of Tree.com's reporting units and their respective indefinite-lived intangible assets been hypothetically lower by 10% as of October 1, 2007 the aggregate book value of goodwill and indefinite-lived intangible assets would have exceeded fair value by approximately \$7.0 million at Lending and \$8.0 million at Real Estate. Had the estimated fair values of Tree.com's reporting units and their respective indefinite-lived intangible assets been hypothetically lower by 20% as of October 1, 2007, the book value of goodwill and indefinite-lived intangible assets would have exceeded fair value by approximately \$21.0 million at Lending and \$18.0 million at Real Estate.

### **Income Taxes**

Estimates of deferred income taxes and the significant items giving rise to the deferred assets and liabilities are shown in Note 7, and reflect management's assessment of actual future taxes to be paid on items reflected in the consolidated financial statements, giving consideration to both timing and the probability of realization. As of December 31, 2007, the balance of deferred tax liabilities, net, is \$30.3 million. Actual income taxes could vary from these estimates due to future changes in income tax law, state income tax apportionment or the outcome of any review of IAC's tax returns by the IRS, as well as actual operating results of Tree.com that vary significantly from anticipated results. Effective January 1, 2007, Tree.com adopted the provisions of FIN 48. As a result of the adoption of FIN 48, Tree.com recognizes liabilities for uncertain tax positions based on the two-step process prescribed by the interpretation. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates it is more likely than not that the position will be sustained on audit, including resolution of related appeals or litigation processes, if any. The second step is to measure the tax benefit as the largest amount which is more than 50% likely of being realized upon ultimate settlement. This measurement step is inherently difficult and requires subjective estimations of such amounts to determine the probability of various possible outcomes. Tree.com considers many factors when evaluating and estimating its tax positions and tax benefits, which may require periodic adjustments and which may not accurately anticipate actual outcomes.

### **Loans Held for Sale**

Loans held for sale consist primarily of residential first and second mortgage loans that are secured by residential real estate throughout the United States. LendingTree Loans originates residential loans with the intent to sell them in the secondary market. Loans held for sale are carried at the lower of cost or market value in accordance with SFAS No. 65, "Accounting for Certain Mortgage Banking Activities." The lower of cost or market value is determined on an individual basis for loans that have been impaired and on an aggregate basis for loans that have not been impaired. The cost basis of loans held for sale includes the capitalized cost associated with the interest rate lock commitments, deferred origination fees, deferred origination costs and prior to April 1, 2007 the effects of hedge accounting. The market value of loans held for sale is determined using current secondary

market prices for loans with similar coupons, maturities and credit quality. The December 31, 2007 consolidated balance sheet includes \$86.8 million of loans held for sale, which is net of an associated valuation allowance of \$4.3 million. The valuation allowance is the amount by which the cost of loans held for sale exceeds the market value of loans held for sale.

LendingTree Loans sells loans it originates to investors on a servicing released basis so the risk of loss or default by the borrower is generally transferred to the investor. However, LendingTree Loans is required by these investors to make certain representations relating to credit information, loan documentation and collateral. To the extent LendingTree Loans does not comply with such representations, or there are early payment defaults, LendingTree Loans may be required to repurchase loans or indemnify the investors for any losses from borrower defaults. As such, LendingTree Loans records a liability for the estimated obligation related to this exposure based, in part, on historical and projected loss frequency and loss severity, the original principal amount of the loans previously sold, the year the loans were sold, and loan type. There are four loan types used in this analysis which are determined based on the extent of the documentation received (full or limited) and the lien position of the mortgage in the underlying property (first or second position). In the case of early payment payoffs, which occurs when a borrower prepays a loan prior to the end of the prepayment penalty period, LendingTree Loans may be required to repay all or a portion of the premium initially paid by the investor. The estimated obligation associated with early loan payoffs is calculated based on historical loss experience by type of loan. Specific circumstances may also cause management to estimate and record additional liabilities specific to a situation based on certain assumptions of future losses as a result of current activity. Because LendingTree Loans does not service the loans it sells, it does not maintain nor have access to the current balances and loan performance data with respect to the individual loans previously sold to investors. As such, LendingTree Loans is unable to determine its maximum loss exposure. For the year ended December 31, 2007 LendingTree Loans increased its liability for losses on previously sold loans by approximately \$15.5 million as a reduction to revenue. In 2007, \$5.4 million was paid or written off against the liability. The related liability at December 31, 2007 is \$13.9 million.

### **Seasonality**

Lending and Real Estate revenue is subject to the seasonal and cyclical trends of the U.S. housing market. On a seasonal basis, home sales typically rise during the spring and summer months and decline during the fall and winter months. The current cyclical trends have impacted and are expected to continue to impact typical seasonal trends. Refinancing and home equity activity is principally driven by mortgage interest rates as well as real estate values.

### **New Accounting Pronouncements**

Refer to Note 2 to the consolidated financial statements for a description of recent accounting pronouncements.

## QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

### Interest Rate Risk

Tree.com's exposure to market rate risk for changes in interest rates relates primarily to its loans held for sale, and LendingTree Loans' lines of credit.

#### *Loans Held for Sale*

LendingTree Loans' mortgage banking operations expose Tree.com to interest rate risk for loans originated until those loans are sold in the secondary market ("loans held for sale"). The fair value of loans held for sale is subject to change primarily due to changes in market interest rates. LendingTree Loans hedges the changes in fair value of certain loans held for sale primarily by entering into mortgage forward delivery contracts. Although LendingTree Loans continues to enter into derivatives for risk management purposes, effective April 1, 2007 management determined these derivative instruments would no longer qualify for the hedge accounting provisions of SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities."

When hedge accounting was discontinued, the affected loans held for sale were no longer adjusted for changes in fair value. However, the changes in fair value of the derivative instruments continue to be recognized in current earnings as a component of revenue. For the year ended December 31, 2007 Tree.com recognized losses of \$1.1 million related to the changes in fair value of derivative instruments related to loans held for sale. For the three months ended March 31, 2008, Tree.com recognized losses of less than \$0.1 million related to the changes in fair value of derivative instruments related to loans held for sale.

In addition, LendingTree Loans provides interest rate lock commitments ("IRLCs") to fund mortgage loans at interest rates previously agreed upon with the borrower for specified periods of time, which also expose it to interest rate risk. IRLCs are considered derivative instruments and, therefore, are recorded at fair value, with changes in fair value reflected in current period earnings. To manage the interest rate risk associated with the IRLCs, Tree.com uses derivative instruments, including mortgage forward delivery contracts. These instruments do not qualify for hedge accounting. The net change in the fair value of these derivatives for the year ended December 31, 2007 resulted in losses of \$0.8 million which have been recognized as a component of revenue in the accompanying consolidated statements of operations.

On January 1, 2008, Tree.com adopted the provisions of SFAS No. 157, "Fair Value Measurements" ("SFAS No. 157"). Prior to the adoption of SFAS 157 the recognition of gains and losses at the inception of a derivative contract were prohibited unless the fair value of the contract was evidenced by a quoted price in an active market. As no active market exists for IRLCs, such day one gains and losses were not recognized until the related loan was sold. Prior to January 1, 2008, guidance also prohibited including the value of servicing the loan in calculating the fair value of an IRLC. Such guidance was rescinded by Staff Accounting Bulletin No. 109, "Written Loan Commitments Recorded at Fair Value Through Earnings" ("SAB 109"). Accordingly, with the adoption of SFAS No. 157 and SAB 109 on January 1, 2008, the day one gains and servicing value, adjusted by the loan funding probability, are included in the value of IRLCs. The net change in the fair value of the IRLCs and related forward delivery contracts, including the impact of day one gains and servicing value, for the three months ended March 31, 2008 resulted in gains of \$14.8 million which have been recognized as a component of revenue in the accompanying consolidated statements of operations.

The fair values of derivative financial instruments at LendingTree Loans are impacted by movements in market interest rates. Changes in the fair value of the derivative financial instruments would substantially be offset by changes in the fair value of the items for which risk is being mitigated. As of March 31, 2008 and December 31, 2007, if market interest rates had increased by 100 basis points, the aggregate fair value of the derivative financial instruments and the hedged items at LendingTree Loans would have increased by \$0.1 million and decreased by \$0.2 million, respectively. As of March 31, 2008 and December 31, 2007, if market interest rates had decreased by 100 basis points, the aggregate fair value of the derivative financial instruments and the hedged items at LendingTree Loans would have decreased by \$0.8 million and \$0.3 million, respectively.

**Tree.com Board of Directors and Executive Officers**

The following table sets forth information as to persons who are expected to serve as Tree.com directors and executive officers following the spin-offs. The Tree.com Board of Directors, the composition of which complies with the independence requirements under the current standards imposed by the Marketplace Rules, including the transitional rules set forth therein, is currently expected to consist of five directors.

Name	Age	Position(s)
Douglas Lebda	38	Chairman, Chief Executive Officer and Director of Tree.com
Scott Cammann	47	Senior Vice President and General Counsel of Tree.com
Robert Harris	48	President, LendingTree Exchange
Peter C. Horan	53	Director of Tree.com
Joseph Levin	28	Director of Tree.com
Lance Melber*	46	Director of Tree.com
David Norris	43	President of Home Loan Center, Inc.
Steven Ozonian*	53	Director of Tree.com
Matthew Packey	40	Senior Vice President and Chief Financial Officer of Tree.com
Bret Violette	41	President of Real Estate

\* Independent Directors

**Directors**

Background information about those individuals who are expected to serve as directors of Tree.com appears below. Liberty Media Corporation has chosen not to immediately exercise its right to nominate directors at Tree.com, but retains its ability to do so in the future. See "Certain Relationships and Related Party Transactions—Agreements with Liberty Media Corporation."

*Douglas Lebda*, age 38, will serve as Chairman, Chief Executive Officer and director of Tree.com upon completion of the spin-offs and has served in such capacity for LendingTree since January 2008. Mr. Lebda has also served as President and Chief Operating Officer of IAC since the end of 2005. Prior to assuming his current roles, Mr. Lebda served as the Chief Executive Officer of LendingTree, which he founded, since September 1998. Prior to his tenure as Chief Executive Officer of LendingTree, Mr. Lebda served as Chairman of the Board and President of LendingTree since June 1996. Before founding LendingTree in June 1996, Mr. Lebda worked as an auditor and consultant for PriceWaterhouseCoopers. Mr. Lebda is a member of the Board of Directors of Eastman Kodak.

*Peter C. Horan*, age 53, currently serves as CEO of GoodmailSystems, Inc. Prior to that, he served as CEO of IAC Media & Advertising from January 2007 to June 2008. Mr. Horan previously served as CEO of AllBusiness.com, Inc. Prior to that, Mr. Horan was CEO of About.com. Prior to About.com, he served as President and Chief Executive Officer of DevX.com, Inc., an Internet media company. Mr. Horan spent 10 years at International Data Group, a leading global technology media company, where he spearheaded relationships with top advertisers on a worldwide basis, and also served as Senior Vice President and Publisher of Computerworld. Prior to that Mr. Horan spent more than 15 years in senior account management roles at leading advertising agencies, including BBDO and Ogilvy & Mather.

*Joseph Levin*, age 28, currently serves Senior Vice President, Mergers & Acquisitions and Finance for IAC. Prior to his current position, Mr. Levin served as Vice President, Finance. In his four years at IAC, Mr. Levin has worked in Strategic Planning, M&A, and Finance. Prior to joining IAC, Mr. Levin worked in the Technology Mergers & Acquisitions group for Credit Suisse First Boston (now Credit Suisse) in San Francisco.

*Lance Melber*, age 46, served as Senior Vice President for Capital One from early 2005 until March of 2008. Prior to that, Mr. Melber founded eSmartloan.com and served as its CEO from 2001 until it was sold to Capital One in early 2005. Prior to founding eSmartloan.com, Mr. Melber served as the Managing Director of Oneloan.com working for First Horizon National Corp. Mr. Melber has a technology background with over 25 years experience in the industry.

*Steven Ozonian*, age 53, is currently the Executive Chairman of Global Mobility Solutions. In 2004, Mr. Ozonian founded Spinnaker Capital Partners in 2004. Prior to that he was a senior executive at Re/Max and Bank of America where he worked in the business development and real estate brokerage acquisition activities.

#### **Executive Officers**

Background about Tree.com's executive officers who are not expected to serve as directors appears below.

*Scott Cammarn*, age 47, will serve as Senior Vice President and General Counsel of Tree.com upon the completion of the spin-offs and has served in such capacity for LendingTree since May 2006. Prior to joining LendingTree, Mr. Cammarn worked for Bank of America for eleven years, during which he served in various legal capacities, most recently as Associate General Counsel, Global Marketing and Global Corporate Affairs. Before joining Bank of America, Mr. Cammarn was a partner at the law firm of Zeiger, Dreher & Carpenter, where he represented a number of leading consumer lending institutions.

*Robert L. Harris*, age 48, will serve as President of Tree.com's LendingTree Exchange business upon completion of the spin-offs and has served in such capacity for LendingTree since June 2008. Mr. Harris previously served as President and Chief Operating Officer of the Lending Business from May 2007 through January 2008 and Vice Chairman from January 2008 through June 2008. Mr. Harris joined LendingTree as Vice President of Marketing in June 2000 and served as Chief Marketing Officer of LendingTree from September 2003 through April 2007. Prior to joining LendingTree, Mr. Harris served as Managing Director, Consumer Marketing of The Coca-Cola Company and worked at McCormick & Company, where he was responsible for leading brand marketing, new products and sales initiatives within the U.S. Consumer Products Group.

*David Norris*, age 43, will serve as President of Home Loan Center, Inc., Tree.com's mortgage subsidiary, upon the spin-off and has served in such capacity since June 2008. Mr. Norris previously served as Senior Vice President of Home Loan Center and LendingTree, LLC, with responsibility for several areas, including Business Planning & Intelligence, Project Management, Call Center, Customer Experience, Six Sigma, and Sales Training. Mr. Norris joined LendingTree in September, 2006 as Vice President of Corporate Quality. Prior to joining LendingTree, Mr. Norris served as Vice President of Service and Solutions for Toshiba America's Digital Products Division where he was responsible for delivering customer solutions and all post-sale product support. Within Toshiba, Mr. Norris also served as Vice President of Management Innovation.

*Matthew Packey*, age 40, will serve as Senior Vice President and Chief Financial Officer of Tree.com upon completion of the spin-offs and has served in such capacity for LendingTree since September 2007. Mr. Packey previously served as LendingTree's Chief Accounting Officer from August

2005 to September 2007 and Controller from January 2000 to August 2005. Prior to joining LendingTree, Mr. Packey served as Vice President and Controller of Broadway & Seymour, Inc., and as a Manager at Deloitte & Touche, LLP. Mr. Packey is a certified public accountant.

*Bret A. Violette*, age 41, will serve as President of Tree.com's Real Estate Business and has served in such capacity for LendingTree since April 2007. Mr. Violette previously served as Senior Vice President and General Manager of LendingTree's real estate brokerage business from June 2005. Before joining LendingTree, Mr. Violette served as President of Weichert Lead Network, Inc. and Weichert Rental Network, Inc. from 2002 to June 2005. Prior to that time, Mr. Violette served as Chief Financial Officer and Vice President of Business Development of YHD Foxtons, Vice President of Business Development at CMP Media Inc. and as a Group Business Director of Ziff-Davis.

### **Committees of the Board of Directors**

Concurrent with the completion of the spin-offs, the Tree.com Board of Directors will establish the following committees: the Audit Committee, the Compensation Committee and the Nominating Committee. The composition of each such committee will satisfy the independence requirements and current standards of the SEC, Marketplace Rules and Internal Revenue Service rules (as applicable), including the transitional rules set forth therein.

***Audit Committee.*** The Audit Committee of the Tree.com Board of Directors will consist of Messrs. Melber, Ozonian and Horan. IAC has concluded, subject to confirmation by the Tree.com Board of Directors, that Mr. Ozonian is an "audit committee financial expert," as such term is defined in applicable SEC rules.

The Audit Committee will function pursuant to a written charter adopted by the Tree.com Board of Directors, pursuant to which it will be granted the responsibilities and authority necessary to comply with Rule 10A-3 of the Securities Exchange Act of 1934, as amended. The Audit Committee will be appointed by the Tree.com Board of Directors to assist the Tree.com Board with a variety of matters, including monitoring (1) the integrity of Tree.com's financial statements, (2) the effectiveness of Tree.com's internal control over financial reporting, (3) the qualifications and independence of Tree.com's independent registered public accounting firm, (4) the performance of Tree.com's internal audit function and independent registered public accounting firm and (5) the compliance by Tree.com with legal and regulatory requirements.

***Compensation Committee.*** The Compensation Committee will be comprised of Messrs. Melber and Ozonian and will be authorized to exercise all of the powers of the Tree.com Board of Directors with respect to matters pertaining to compensation and benefits, including, but not limited to, salary matters, incentive/bonus plans, stock compensation plans, retirement programs and insurance plans.

***Nominating Committee.*** The Nominating Committee will be comprised of Messrs. Melber and Ozonian and will be responsible for identifying individuals qualified to become members of Tree.com's Board of Directors, recommending to the Board director nominees for the annual meeting of shareholders and otherwise on an as needed basis.

***Other Committees.*** In addition to the foregoing committees, the Tree.com Board of Directors, by resolution, may from time to time establish other committees of the Tree.com Board of Directors, consisting of one or more of its directors.

## Director Compensation

**Non-Employee Director Arrangements.** Each member of the Tree.com Board of Directors will receive an annual retainer in the amount of \$40,000. Each member of the Audit or Compensation Committee will receive an additional annual retainer in the amount of \$10,000, although the chair of the Audit Committee will receive an additional annual chairperson retainer in the amount of \$15,000.

In addition, each non-employee director will receive a grant of restricted stock units with a dollar value of \$50,000 upon his or her initial election to the Tree.com Board of Directors and annually thereafter upon re-election on the date of Tree.com's annual meeting of stockholders. The terms of these restricted stock units provide for (i) vesting in two equal annual installments commencing on the first anniversary of the grant date, (ii) cancellation and forfeiture of unvested units in their entirety upon termination of service with the Tree.com Board of Directors and (iii) full acceleration of vesting upon a change in control of Tree.com. Directors will be able to elect to receive their cash payments in restricted stock at a fixed discount to the market price at the grant date. Non-employee directors are also reimbursed for all reasonable expenses incurred in connection with attendance at Tree.com Board and Committee meetings.

The Compensation Committee will have primary responsibility for establishing non-employee director compensation arrangements, which are designed to provide competitive compensation necessary to attract and retain high quality non-employee directors and to encourage ownership of Tree.com stock to further align directors' interests with those of Tree.com's stockholders. When considering non-employee director compensation arrangements, Tree.com management will provide the Compensation Committee with information regarding various types of non-employee director compensation arrangements and practices of select peer companies.

**Deferred Compensation Plan for Non-Employee Directors.** Under Tree.com's Deferred Compensation Plan for Non-Employee Directors, non-employee directors will be able to defer all or a portion of their Board and Board Committee fees. Eligible directors who defer all or any portion of these fees can elect to have such fees applied to the purchase of share units, representing the number of shares of Tree.com common stock that could have been purchased on the relevant date, or credited to a cash fund. If any dividends are paid on Tree.com common stock, dividend equivalents will be credited on the share units. The cash fund will be credited with deemed interest at an annual rate equal to the weighted average prime lending rate of JPMorgan Chase Bank. After a director ceases to be a member of the Tree.com Board of Directors, he or she will receive (i) with respect to share units, such number of shares of Tree.com common stock as the share units represent and (ii) with respect to the cash fund, a cash payment in an amount equal to deferred amounts, plus accrued interest. These payments will be made in either one lump sum or up to five installments, as previously elected by the eligible director at the time of the related deferral election.

## Director Independence

Under the Marketplace Rules, Tree.com's Board will have a responsibility to make an affirmative determination that those members of its Board that serve as independent directors do not have any relationships with Tree.com and its businesses that would impair their independence. In connection with these determinations, Tree.com's Board will review information regarding transactions, relationships and arrangements involving Tree.com and its businesses and each director that it deems relevant to independence, including those required by the Marketplace Rules. This information is obtained from director responses to a questionnaire circulated by Tree.com management, Tree.com records and publicly available information. Following these determinations, Tree.com management will monitor those transactions, relationships and arrangements that are relevant to such determinations, as well as solicit updated information potentially relevant to independence from internal personnel and directors, to determine whether there have been any developments that could potentially have an adverse impact on Tree.com's prior independence determinations.

## **Compensation Committee Interlocks and Insider Participation**

Tree.com's Board of Directors will have a Compensation Committee comprised of Messrs. Melber and Ozonian, neither of whom will be or has been in the past an officer or employee of Tree.com or any of its businesses at the time of their respective service on the Committee.

### **Tree.com Executive Compensation**

#### ***Compensation Discussion and Analysis***

##### ***Roles and Responsibilities***

To date, the compensation of Tree.com's executive officers has been predominantly determined by IAC, acting in effect as Tree.com's compensation committee. IAC's compensation process is principally driven by IAC's General Counsel, who has primary responsibility for administering compensation and making compensation recommendations, with all material decisions approved by IAC's Chairman and Chief Executive Officer and, where appropriate, the Compensation Committee of IAC's Board of Directors (specifically with respect to all awards of IAC equity).

This Compensation Discussion and Analysis deals exclusively with historical information while Tree.com has been a part of IAC. Following the spin-off, Tree.com will have an independent board of directors, which will in turn have a compensation committee with responsibility for establishing Tree.com's compensation philosophy and programs and determining appropriate payments and awards to its executive officers. Because Tree.com's compensation committee has not yet been established, Tree.com cannot predict what compensation philosophies and programs will be adopted following the spin-off, and therefore this historical report is not necessarily indicative of the practices it will follow when it is an independent public company.

In general, IAC has been responsible for establishing bonus pools and equity pools for Tree.com, and then such pools are allocated throughout Tree.com, with IAC directly establishing all compensation elements for Tree.com's CEO, while the Tree.com CEO makes the determinations for Tree.com's other executive officers, subject to IAC's review and approval.

Neither Tree.com nor IAC has an ongoing relationship with any particular compensation consulting firm, though IAC has from time to time retained the services of consultants on specific occasions regarding broad-based IAC compensation programs. At no time has a consultant been engaged with respect to compensation of any of Tree.com's executive officers.

Until January 2008, Mr. Lebda was an executive officer of IAC, and not of Tree.com, and as such all decisions relating to Mr. Lebda's compensation were made by the IAC Compensation Committee with respect to IAC's performance overall, and his performance in his capacity as President and Chief Operating Officer of IAC.

As of the end of 2007, C.D. Davies served in the capacity of CEO, Lending Tree LLC, and as such was an executive officer of the Company. In 2008, Mr. Davies accepted a new role with the Company as Vice Chairman, a part time position in which he serves in primarily an advisory capacity, and as such is no longer considered an executive officer of the Company. Accordingly, his 2008 compensation is discussed in this Compensation Discussion and Analysis, and is reflected in the compensation tables, but he is not listed as an executive officer of the Company.

##### ***Philosophy and Objectives***

Tree.com's executive officer compensation program is designed to increase long-term stockholder value by attracting, retaining, motivating and rewarding leaders with the competence, character, experience and ambition necessary to enable Tree.com to meet its growth objectives.

When establishing compensation packages for a given executive, Tree.com has followed a flexible approach, and has made decisions based on a host of factors particular to a given executive situation, including its firsthand experience with the competition for recruiting and retaining executives,

negotiation and discussion with the relevant individual, competitive survey data, internal equity considerations and other factors it deems relevant at the time.

Similarly, Tree.com has not followed an arithmetic approach to establishing compensation levels and measuring and rewarding performance for its executive officers, as these often fail to adequately take into account the multiple factors that contribute to success at the individual and business level. In any given period, Tree.com may have multiple objectives, and these objectives, and their relative importance, often change as the competitive and strategic landscape shifts, even within a given compensation cycle. As a result, formulaic approaches often over-compensate or under-compensate a given performance level. Accordingly, Tree.com has historically avoided the use of strict formulas in its compensation practices and has relied primarily on a discretionary approach.

### ***Compensation Elements***

Tree.com's compensation packages for executive officers have primarily consisted of salary, annual bonuses, long term incentives (typically equity awards) and other benefits. Prior to making specific decisions related to any particular element of compensation, Tree.com typically reviews the total compensation of each executive, evaluating the executive's total near and long-term compensation in the aggregate. Tree.com determines which element or combinations of compensation elements (salary, bonus or equity) can be used most effectively to further its compensation objectives. However, all such decisions are subjective, and made on a facts and circumstances basis without any prescribed relationship between the various elements of the total compensation package.

### ***Salary***

*General.* Tree.com typically negotiates a new executive officer's starting salary upon arrival, based on the executive's prior compensation history, prior compensation levels for the particular position within Tree.com, Tree.com's location, salary levels of other executives within Tree.com, salary levels available to the individual in alternative opportunities, reference to certain survey information and the extent to which Tree.com desires to secure the executive's services.

Once established, salaries can increase based on a number of factors, including the assumption of additional responsibilities, internal equity, periodic market checks and other factors which demonstrate an executive's increased value to Tree.com.

Tree.com utilizes the Towers Perrin Executive Compensation Data Bank when referring to survey data in formulating its compensation packages.

*2007.* In 2007, Mr. C.D. Davies (who served as CEO of the Lending business as of the end of 2007, but no longer serves as an executive of Tree.com), Mr. Violette, Mr. Harris and Mr. Packey each received salary increases in connection with the assumption of new roles within Tree.com. To reflect his promotion to Chief Executive Officer of the company's Lending business, Mr. Davies received a salary increase from \$300,000 to \$450,000. Mr. Violette was promoted to President of the company's Real Estate business in April 2007 and received a salary increase from \$312,000 to \$400,000. Mr. Harris was promoted to President and Chief Operating Officer of the Lending business in May 2007 and received a salary increase from \$255,000 to \$325,000. Mr. Packey was promoted to Chief Financial Officer in October 2007 and received an increase from \$210,000 to \$241,500. All of these increases were the result of conversations between the company and the relevant executives, and in making its determinations Tree.com took into account a variety of factors, including internal pay structure, its assessment of market salaries, and, in certain instances, survey data.

*2008.* In connection with the employment agreement pursuant to which Mr. Lebda returned to Tree.com as its Chairman and Chief Executive Officer (the "New Lebda Employment Agreement"), Mr. Lebda agreed to a salary of \$750,000, which is the same as the salary he had been receiving as President and Chief Operating Officer of IAC.

## *Annual Bonuses*

*General.* Tree.com's bonus program is designed to reward performance on an annual basis. Because of the variable nature of the bonus program, and because in any given year bonuses have the potential to make up a significant portion of an executive's total compensation, the bonus program provides an important incentive tool to achieve Tree.com's annual objectives.

After consultation with Tree.com management, IAC establishes the annual bonus pool for the Lending and Real Estate businesses based on its assessment of their respective performances during the completed year. Both the Lending and Real Estate businesses have generally been measured by growth in profitability, but this is measured subjectively both in absolute terms over the prior year and in comparison to their competitors, taking into account economic and other factors, without any pre-established targets. Additionally, consideration has sometimes been given to achievement of various strategic objectives over the course of the year and other factors IAC and Tree.com's management deem relevant. No quantified weight has been given to any particular consideration and there has generally been no formulaic calculation. Rather, IAC has engaged in an overall assessment of appropriate bonus levels based on a subjective interpretation of all the relevant criteria.

IAC determines the bonus amounts for the Presidents of the Lending and Real Estate businesses, based largely on the same considerations used in establishing the bonus pools for the businesses generally.

The Presidents of each business then establish the bonus payments to the other executive officers out of the bonus pool. Specific bonus payouts are determined based loosely on Tree.com's actual bonus pool and the relative role and importance of each executive, with individualized adjustments in certain instances for an executive's individual performance. With the exception of Mr. Violette, none of the executives at Tree.com have target bonus opportunities.

Tree.com generally pays bonuses shortly after year-end following finalization of financial results for the prior year.

*2007.* Lending and Real Estate each had difficult years in extremely challenging environments, and bonuses generally reflected these factors. In 2007, Mr. Davies and Mr. Violette each received guaranteed minimum bonuses under the terms of their employment agreements. Given disappointing financial results, IAC determined not to make bonus payments in excess of those minimums. Mr. Davies received a bonus of \$350,000 and Mr. Violette received a bonus of \$500,000. Tree.com's overall 2007 performance did not warrant reward bonuses, but concerned about turmoil in the lending industry, Tree.com determined to pay guaranteed bonuses to certain key performers, as determined by Mr. Davies and Mr. Lebda. Mr. Harris and Mr. Packey were included in this group. For each individual receiving a bonus, an amount was established, with 50% guaranteed to be paid in February 2008 and 50% in July 2008, in each case based on continued employment with Tree.com. For purposes of this compensation disclosure, Tree.com has considered the 50% payout made in February 2008 to Messrs. Harris and Packey as being bonuses paid with respect to 2007. Mr. Harris and Mr. Packey received payouts of \$75,000 and \$50,000, respectively, in each of February and July. These amounts were established based on a subjective determination by Mr. Davies, in consultation with Mr. Lebda, of the amounts necessary to retain these individuals, given the limited amount of cash provided by IAC for the retention program company-wide.

No bonuses were paid to IAC executive officers on account of 2007 as a result of poor performance of IAC as a whole, and consequently Mr. Lebda was not paid a bonus for 2007.

## *Long-Term Incentives*

*General.* Tree.com believes that ownership shapes behavior, and that by providing a meaningful portion of an executive officer's compensation in stock, the executive's incentives are aligned with stockholder interests in a manner that drives better performance over time. As part of IAC, that led to Tree.com's executive officers receiving IAC equity awards on a regular basis.

In setting particular award levels, the predominant objectives are providing the recipient with effective retention incentives, appropriate reward for past performance, and incentives for strong future performance. Appropriate levels to meet these goals may vary from year to year, and from individual to individual, based on a variety of factors.

The annual corporate performance factors relevant to setting bonus amounts that were discussed above, while taken into account, are generally less relevant in setting annual equity awards, as the awards tend to be more forward looking, and are a longer-term retention and reward instrument than Tree.com's annual bonuses.

Awards to the Presidents of Lending and Real Estate have been made by IAC. Additionally, IAC establishes a pool for annual equity awards which the Presidents then allocate to the rest of their businesses, including the other executive officers, subject to IAC's approval. Additionally, IAC approves any equity grants recommended to be made to Tree.com executives outside of the annual process. Executive officers receive grants that are subjectively determined based on IAC's (or the Presidents') view of how best to allocate the equity pool for retention, reward and motivation based on a host of subjective factors (including past contribution, retention risk, contribution potential, and market data).

Except where otherwise noted, Tree.com grants equity awards following year-end after finalization of financial results for the prior year. The meeting of the Compensation Committee of the IAC Board at which the awards are made is generally scheduled months in advance and without regard to the timing of the release of earnings or other material information.

*Restricted Stock Units.* Until 2008, IAC used restricted stock units, or RSUs, as its exclusive equity compensation tool for Tree.com's executive officers. Through 2006, these awards generally vested in equal annual installments over 5 years (annual vesting RSUs), or cliff vested at the end of five years (cliff-vesting RSUs). Annual awards were intended to provide frequent rewards and near-term retention incentives, while cliff-vesting RSUs provided more of a long-term retention mechanism.

In February 2007, IAC implemented a new equity instrument, Growth Shares, which were RSU grants that cliff vested at the end of three years in varying amounts depending upon growth in IAC's publicly reported metric, Adjusted Earnings Per Share, with certain modifications.

These awards were introduced throughout IAC to more closely link long-term reward with IAC's overall performance and to provide greater retentive effect by providing the opportunity to earn greater amounts through increased IAC performance. However, in connection with the spin-off, these awards will be converted into three-year cliff-vesting awards at the "target" value (or 50% of the shares actually granted), without variability based on performance. For information regarding the reasons behind this conversion, see "The Separation—Treatment of Outstanding IAC Compensatory Equity-Based Awards."

*LendingTree Equity.* At the time of IAC's acquisition of LendingTree, a wholly owned subsidiary of Tree.com which contains Tree.com's operating assets, Mr. Lebda, Mr. Harris and Mr. Packey were granted awards representing 4.25%, 0.7% and 0.075% of LendingTree's common equity. In addition to common equity, LendingTree has outstanding another class of equity with a liquidation preference equal to the price IAC paid for LendingTree plus accreted dividends since the acquisition. At the time Mr. Lebda became President and Chief Operating Officer of IAC, he exchanged 25% of his LendingTree award for 200,000 shares of restricted stock of IAC, and acquired a right to exchange 25% of his award for 300,000 shares of IAC stock in 2009. All these LendingTree awards are fully vested, and subject to a put right to Tree.com in 2009 (and annually thereafter) and a call right by Tree.com in 2011 (and annually thereafter). Tree.com believes the liquidation preference of the senior equity is significantly greater than the value of LendingTree, and therefore believes it is highly unlikely that these equity awards will ever result in value to the holders. Additionally, Tree.com expects Mr. Lebda to exercise his exchange right for 300,000 shares of IAC, which right will be accelerated at the time of the spin-off.

2007. Mr. Davies received 10,659 RSUs when hired by Tree.com and also received 7,500 Growth Shares (at target) to reflect his promotion to Chief Executive Officer of Tree.com. Mr. Harris received 2,509 RSUs and 15,056 Growth Shares (at target) in connection with the annual grant process and also received 5,738 Growth Shares (at target) related to his promotion to President and Chief Operating Officer of Tree.com. Mr. Violette received 10,000 Growth Shares (at target) in connection with his assuming the role of President of the Real Estate business. Each of these awards were arrived at as a result of negotiations relating to the entering into of new employment agreements by the recipients. Mr. Packey also received 5,833 Growth Shares (at target) and 2,447 annual vesting RSUs in connection with the annual grant process.

Mr. Lebda received 62,735 Growth Shares (at target), the same amount received by the other IAC executive officers (other than the CEO).

2008. Mr. Packey received 12,000 RSUs with a five year annual vesting schedule in recognition of his promotion to Chief Financial Officer of Tree.com. This grant was agreed upon in 2007, but not granted until 2008, and was based on the assumption of additional responsibilities, a review of competitive data, internal equity considerations, and discussions with Mr. Packey.

Under the New Lebda Employment Agreement, Mr. Lebda was granted the right to receive, upon consummation of the spin-off, RSUs in Tree.com equal to 2% of the fully diluted equity of the company, as well as four grants of options, each of which represented the right to acquire 2.5% of the fully diluted equity at exercise prices representing a total equity value of the company of \$250 million, \$300 million, \$400 million and \$450 million, with possible upward adjustments based on the initial trading value in the spin-off. Fully diluted equity will be measured at the time of the spin-off. The restricted stock units vest equally over five years, while the stock options all cliff vest at the end of five years. The New Lebda Employment Agreement also provides that all of Mr. Lebda's outstanding IAC equity awards will vest immediately prior to the spin-off.

Tree.com plans to grant stock options to the other executive officers at the time of the spin-off, although the size of such grants have not yet been determined.

*Spin-Off Adjustments.* In the spin-off, equity awards denominated in IAC stock will be adjusted as described in "Treatment of Outstanding IAC Compensatory Equity-Based Awards."

Presuming the spin-off transactions occur prior to February 2009, the following table reflects the effect of these adjustments on all equity awards held by Tree.com's executive officers:

Name	Upon Completion of the Spin-Off*			
	RSUs that will vest (#)	RSUs that will be converted exclusively into RSUs of Tree.com and vest on regular schedule (#)	RSUs that will be split among the post-transaction companies and vest after February 2009 on regular schedule (#)	Options outstanding at December 31, 2007—all of which will be split among the post-transaction companies (#)
Doug Lebda	192,235(1)	—	—	—
C.D. Davies	—	13,528	2,500	—
Bret Violette	39,029	6,667	3,333	—
Robert Harris	19,354	17,538	22,728	10,848
Matt Packey	1,994	16,850	3,890	—

\* Excludes 7,186, 2,131, 39,027, 501 and 1,525 RSUs that vested since December 31, 2007 or will vest prior to August 1, 2008 for Messrs. Lebda, Davies, Violette, Harris and Packey, respectively.

(1) In addition, 500,000 shares of restricted stock held (or to be received by) Mr. Lebda will vest at the time of the spin-offs.

*Violette Long Term Cash Bonus Plan.* In connection with his agreement to serve as the President of Tree.com's Real Estate business, the company agreed to pay a one-time bonus if the Real Estate business' 2009 revenues are at least \$130 million and 2009 operating income before amortization is at least \$10 million (in which case the bonus shall be \$1 million) or at least \$20 million (in which case the bonus shall be \$2 million). This bonus structure was put in place to provide an incentive for Mr. Violette to grow both the business' top and bottom lines.

### **Change of Control and Severance**

Tree.com believes that providing executives with severance and change of control protection is critical to allowing executives to fully value the forward looking elements of their compensation packages, and therefore limit retention risk during uncertain times. Accordingly, Tree.com's employment agreements and equity awards generally provide for salary continuation in the event of certain employment terminations beyond the control of the executive, as well as varying degrees of accelerated vesting in the event of a change of control of the company.

### **Other Compensation**

Under limited circumstances, certain Tree.com executive officers have received non-cash and non-equity compensatory benefits. The values of these benefits are reported under the heading "Other Annual Compensation" in this filing pursuant to applicable rules. The executive officers do not participate in any deferred compensation or retirement program other than IAC's 401(k) plan.

### **Tax Deductibility**

IAC's practice has been to structure Tree.com's compensation program in such a manner so that the compensation it pays is deductible by IAC for federal income tax purposes. However, because Tree.com's executive officers will now be subject to the limitations on deductibility under Section 162(m) of the Internal Revenue Code of 1986, as amended, and were not previously, certain compensatory arrangements established prior to the spin-off but that will be paid following the spin-off may not result in deductible compensation for Tree.com.

### **Summary Compensation Table**

<b>Name and Principal Position</b>	<b>Year</b>	<b>Salary (\$)</b>	<b>Bonus (\$)</b>	<b>Stock Awards (\$)(1)</b>	<b>All Other Compensation (\$)</b>	<b>Total (\$)</b>
Douglas R. Lebda(2) Chairman and CEO	2007	750,000	—	6,392,587	7,750(4)	7,150,337
C. D. Davies(3) Vice Chairman	2007	377,885	350,000	123,105	4,689(3)	855,679
Bret Violette President, Real Estate	2007	375,631	500,000	1,175,887	6,750(4)	2,058,268
Robert Harris(5) President, LendingTree Exchange	2007	299,423	75,000	482,163	6,750(4)	863,336
Matthew Packey CFO	2007	218,692	50,000	122,617	6,750(4)	398,059

- (1) Reflects the dollar amount recognized by IAC for financial statement reporting purposes for the applicable fiscal years ended December 31, in accordance with SFAS 123R, for IAC restricted stock units ("RSUs") awarded in and prior to the applicable year under IAC's stock and annual incentive plans. These amounts do not, therefore, represent the value of IAC equity compensation awarded or realized in the applicable year. For further discussion of IAC's accounting for its equity compensation plans, see note 4 of IAC's audited financial statements for the fiscal year ended

December 31, 2007 included in its Annual Report on Form 10-K filed with the SEC on February 29, 2008. For information on awards made and realized in 2007, see the Grants of Plan-Based Awards and Option Exercises and Stock Vested tables below.

- (2) Reflects compensation received by Mr. Lebda in his capacity as President and Chief Operating Officer of IAC.
- (3) Reflects compensation received in his capacity as CEO, LendingTree.
- (4) Reflects matching contributions under IAC's 401(k) plan.
- (5) Reflects compensation received as President of the Lending Business.

#### **Grants of Plan-Based Awards**

The table below provides information regarding IAC equity awards granted to Tree.com's named executives in 2007.

Name	Grant Date	Estimated Future Payouts Under Equity Incentive Plan Awards(1)(2)			All other stock awards: number of shares of stock or units #(2)	Grant Date Fair Value of Stock and Option Awards \$(3)
		Threshold (#)	Target (#)	Maximum (#)		
Douglas R. Lebda	2/16/07	3,488	62,735	125,470	—	2,499,990
C.D. Davies	6/18/07	417	7,500	15,000	10,659	623,762
Bret Violette	6/18/07	556	10,000	20,000	—	343,500
Robert Harris	2/16/07	837	15,056	30,112	2,509	699,965
	6/18/07	319	5,738	11,476	—	197,101
Matthew Packey	2/16/07	324	5,833	11,666	2,447	329,958

- (1) Reflects performance-based RSU awards which cliff vest at the end of three years in varying amounts depending upon growth in IAC's publicly reported metric, Adjusted Earnings Per Share, with certain modifications. The threshold amount represents 5.56% of the target payout, which amount will vest upon achieving the minimum growth threshold. These awards will be converted into three year cliff-vesting awards in the spin-offs as described under "The Separation—Treatment of Outstanding IAC Compensatory Equity-Based Awards."
- (2) RSU award recipients would be credited with amounts for cash dividends paid on IAC common stock, with such additional amounts vesting concurrently with the related RSU award. For information on the treatment of RSU awards granted to Tree.com's named executives upon a termination of employment or a change in control, see the discussion under "Potential Payments Upon Termination or Change in Control" below.
- (3) The fair value of equity incentive plan awards is based on the target payout.

## Outstanding Equity Awards at Fiscal Year-End

The table below provides information regarding various IAC equity awards held by Tree.com's named executives as of December 31, 2007. The market value of all RSU and restricted stock awards is based on the closing price of IAC common stock as of December 31, 2007 (\$26.92), the last trading day of 2007.

Name	Option Awards(1)			Stock Awards(1)(2)			
	Number of securities underlying unexercised options (#)(3)	Option exercise price (\$)	Option expiration date	Number of shares or units of stock that have not vested (#)(4)	Market value of shares or units of stock that have not vested \$(4)	Equity incentive plan awards:	Equity incentive plan awards:
						Number of unearned shares, units or other rights that have not vested (#)(4)	Market or payout value of unearned shares, units or other rights that have not vested (\$) (4)
	(Exercisable)						
Douglas R. Lebda(5)	17,892	9.30	12/28/08	—	—	—	—
	52,304	\$ 10.87	9/2/09	—	—	—	—
	49,204	\$ 16.58	1/7/10	—	—	—	—
	49,592	\$ 5.01	12/6/10	—	—	—	—
	61,990	\$ 6.16	4/2/11	—	—	—	—
	54,241	\$ 14.11	3/8/12	—	—	—	—
	38,744	\$ 23.62	12/20/12	—	—	—	—
	—	\$ —	—	200,000	5,384,000	—	—
	—	—	—	136,686(6)	3,679,587(6)	3,488	93,897
C. D. Davies	—	—	—	10,659	286,940	417	11,226
Bret Violette	—	—	—	78,056	2,101,268	556	14,968
Robert Harris(5)	10,848	\$ 23.62	12/20/12	39,327	1,058,683	1,156	31,120
Matthew Packey(5)	—	—	—	6,426	172,988	324	8,722

(1) For a discussion regarding how these equity awards will be treated in the spin-offs, see under "Treatment of Outstanding IAC Compensatory Equity-Based Awards."

(2) Amounts shown for equity incentive plan awards are based on achieving the minimum growth threshold in accordance with SEC rules.

(3) On August 9, 2005, IAC completed the separation of its travel and travel-related businesses and investments (other than Interval and TV Travel Shop) into an independent public company (the "Expedia Spin-Off"). In connection with the Expedia Spin-Off, each then-vested option to purchase shares of IAC common stock was converted into an option to purchase shares of IAC common stock and an option to purchase shares of Expedia common stock. Adjustments were made to the number of shares subject to each IAC and Expedia stock option to give effect to the one-for-two reverse stock split effected in connection with the Expedia Spin-Off and to the corresponding exercise prices based on the relative market capitalizations of IAC and Expedia at the time of the Expedia Spin-Off. The adjusted IAC and Expedia stock options otherwise have the same terms and conditions, including exercise periods, as the corresponding vested IAC stock options outstanding immediately prior to the Expedia Spin-Off.

For the named executives, any value realized upon the exercise of Expedia stock options is treated for tax purposes as compensation payable to them in their respective capacities as executive officers of Tree.com. Accordingly, information regarding Expedia stock options held by Tree.com's named executives as of December 31, 2007 appears in the table immediately below and information regarding any exercises of Expedia stock options by such named executives is reported in the Option Exercises and Stock Vested table below.

Name	Number of Options (#)	Option Exercise Price (\$)	Option Expiration Date
Douglas R. Lebda	38,744	\$ 18.91	12/20/12
Robert Harris	10,848	\$ 18.91	12/20/12

(4) The table below provides the following information regarding RSU awards held by Tree.com's named executives as of December 31, 2007: (i) the grant date of each award, (ii) the number of RSUs outstanding (on an aggregate and grant-by-grant basis), (iii) the market value of RSUs outstanding as of December 31, 2007, (iv) the vesting schedule for each award and (v) the total number of RSUs that vested or are scheduled to vest in each of the fiscal years ending December 31, 2008, 2009, 2010, 2011 and 2012.

Grant Date	Number of Unvested RSUs as of 12/31/07 (#)	Market Value of Unvested RSUs as of 12/31/07 (\$)	Vesting Schedule (#)				
			2008	2009	2010	2011	2012
<b>Douglas R. Lebda</b>							
8/8/03(a)	11,255	302,985	11,255	—	—	—	—
2/4/04(b)	58,982	1,587,795	—	58,982	—	—	—
2/10/05(b)	37,703	1,014,965	—	—	37,703	—	—
2/6/06(c)	28,746	773,842	7,186	7,186	7,187	7,187	—
2/16/07(d)	62,735	1,688,826	—	—	62,735	—	—
<b>Total</b>	<b>199,421</b>	<b>5,368,413</b>	<b>18,441</b>	<b>66,168</b>	<b>107,625</b>	<b>7,187</b>	<b>—</b>
<b>C.D. Davies</b>							
6/18/07(e)	10,659	286,940	2,131	2,132	2,132	2,132	2,132
6/18/07(d)	7,500	201,900	—	—	7,500	—	—
<b>Total</b>	<b>18,159</b>	<b>488,840</b>	<b>2,131</b>	<b>2,132</b>	<b>9,632</b>	<b>2,132</b>	<b>2,132</b>
<b>Bret Violette</b>							
6/15/05(c)	78,056	2,101,268	39,027	39,029	—	—	—
6/18/07(d)	10,000	269,200	—	—	10,000	—	—
<b>Total</b>	<b>88,056</b>	<b>2,370,468</b>	<b>39,027</b>	<b>39,029</b>	<b>10,000</b>	<b>—</b>	<b>—</b>
<b>Robert Harris</b>							
2/10/05(b)	18,852	507,496	—	—	18,852	—	—
2/6/06(b)	17,966	483,645	—	—	—	17,966	—
2/16/07(c)	2,509	67,542	501	502	502	502	502
2/16/07(d)	15,056	405,308	—	—	15,056	—	—
6/18/07(d)	5,738	154,467	—	—	5,738	—	—
<b>Total</b>	<b>60,121</b>	<b>1,618,458</b>	<b>501</b>	<b>502</b>	<b>40,148</b>	<b>18,468</b>	<b>502</b>
<b>Matthew Packey</b>							
9/30/03(a)	152	4,092	152	—	—	—	—
2/10/05(c)	952	25,628	317	317	318	—	—
2/6/06(c)	2,875	77,395	719	718	719	719	—
2/16/07(c)	2,447	65,873	489	489	490	489	490
2/16/07(d)	5,833	157,024	—	—	5,833	—	—
<b>Total</b>	<b>12,259</b>	<b>330,012</b>	<b>1,677</b>	<b>1,524</b>	<b>7,360</b>	<b>1,208</b>	<b>490</b>

(a) These awards vest in four equal installments, beginning on the second anniversary of the grant date, subject to continued employment.

- (b) These awards vest in one lump sum installment on the fifth anniversary of the grant date, subject to continued employment.
  - (c) These awards vest in five equal annual installments on each of the first five anniversaries of the grant date, subject to continued employment.
  - (d) Represents the initial "target" awards. See the Grant of Plan-Based Awards table and footnote (1) thereto.
  - (e) These awards vest in five equal annual installments on each of the first five anniversaries of January 22, 2007, Mr. Davies' date of hire.
- (5) Excludes LendingTree units held as of December 31, 2007 and, in the case of Mr. Lebda, also excludes 300,000 shares of IAC common stock receivable upon the exercise of contractual right to exchange certain LendingTree units in early 2009 (or, if earlier, at the time of the spin-off). These units have no market value and are instead subject to appraisal at the time of certain put-call rights. Tree.com believes that these awards have no value. For more information regarding these equity arrangements, see the discussion under the "Compensation Discussion and Analysis" and "Potential Payments Upon Termination or Change in Control" sections, and the Option Exercises and Stock Vested table.
- (6) Reflects shares of restricted stock received by Mr. Lebda upon the effective date of the 2006 agreement relating to his promotion to President and Chief Operating Officer of IAC in exchange for certain of his LendingTree units.

#### **Option Exercises and Stock Vested**

The table below provides information regarding the number of shares acquired by Tree.com's named executives in 2007 upon the exercise of stock options and the vesting of RSU awards and the related value realized, in each case, excluding the effect of any applicable taxes. The dollar value realized upon exercise of stock options represents the difference between (i) the sale price of the shares acquired on exercise for simultaneous exercise and sale transactions and (ii) the exercise price of the stock option, multiplied by the number of stock options that were exercised. The dollar value realized upon vesting of RSUs represents the closing price of IAC common stock on the applicable vesting date multiplied by the number of RSUs so vesting.

Name	Option Awards		Stock Awards	
	Number of Shares Acquired on Exercise (#)	Value Realized on Exercise (\$)	Number of Shares Acquired on Vesting (#)	Value Realized on Vesting (\$)
Douglas R. Lebda(1)	70,832(2)	1,318,126	18,440	582,789
C.D. Davies	—	—	—	—
Bret Violette	—	—	39,027	1,358,140
Robert Harris(1)	—	—	—	—
Matthew Packey(1)	—	—	1,134	43,693

- (1) In addition, 1.42, 1.4, and 0.15 LendingTree units held by Messrs. Lebda, Harris and Packey, respectively, vested in 2007, which number represents less than 1% of the total outstanding common units of LendingTree. These awards were granted to certain LendingTree employees at the time of its acquisition by IAC in 2003, became fully vested in February 2008, and are subject to put and call rights beginning in 2009. This table also excludes, in the case of Mr. Lebda, LendingTree units held by him that are subject to the 2009 exchange right, as discussed under Compensation Discussion and Analysis. These units are significantly out of the money and are not expected to result in any value.
- (2) Includes 49,204 Expedia shares acquired upon the exercise of Expedia stock options received in connection with the Expedia Spin-Off.

## Potential Payments Upon Termination or Change in Control

### Change of Control

Pursuant to the terms of IAC's (and, following the spin-off, Tree.com's) equity compensation plans and the award agreements thereunder, upon a change of control the named executive officers are generally entitled to accelerated vesting of (i) equity awards made prior to 2006 and (ii) equity awards made thereafter if, following such change in control, their employment is terminated by the Company for any reason other than death, disability or cause (as defined in the relevant employment agreement), or by the executive for good reason (as defined in the relevant plan or employment agreement) (a "Qualifying Termination").

### Severance

*Cash.* Upon a Qualifying Termination, Mr. Lebda and Mr. Violette shall be entitled to salary continuation for the remainder of the terms of their employment agreements, provided Mr. Lebda shall not receive such continuation for more than three years. Mr. Harris would receive salary continuation for twelve months following a Qualifying Termination. Upon a Qualifying Termination, Mr. Violette would also be entitled to a pro rated portion of his long-term cash bonus plan if any such payout is ultimately earned and his remaining guaranteed bonuses of \$500,000 payable in July of 2008 and 2009.

*Equity.* Upon a Qualifying Termination, Mr. Lebda will receive full acceleration of his equity awards outstanding immediately following the spin-off, Mr. Violette will receive full acceleration of any unvested RSUs he received in 2005, and Mr. Harris will receive acceleration of a portion of the cliff-vesting RSU awards granted in 2005 and 2006 equal to 20% of each such award for each full year of service from the date of grant to the date of termination.

*Obligations.* The amounts payable upon a Qualifying Termination are all subject to the execution of a general release and to compliance with confidentiality, non-compete, non-solicitation of employees and non-solicitation of customer covenants set forth in the relevant employment agreements. Salary continuation payments will be offset by the amount of any compensation earned by an executive from other employment during the severance payment period.

The amounts shown in the table assume that the termination or change in control was effective as of December 31, 2007 and that the price of IAC common stock on which certain calculations are based was the closing price of \$26.92 on The Nasdaq Stock Market on that date. These amounts are estimates of the incremental amounts that would have been paid out to the executive upon such terminations/change in control, and do not take into account equity grants made, and contractual

obligations entered into, after December 31, 2007. The actual amounts to be paid out can only be determined at the time the event actually occurs.

Name and Benefit	Termination without cause	Resignation for good reason	Death or Disability	Change in Control of IAC	Termination w/o cause or for good reason in connection with Change in Control
<b>Douglas Lebda(1)</b>					
Cash Severance (salary)	750,000	750,000	—	—	750,000
RSUs (vesting accelerated)	13,762,985	13,762,985	9,130,860	10,752,413	16,225,654
Total estimated value	14,512,985	14,512,985	9,130,860	10,752,413	16,975,654
<b>C.D. Davies(2)</b>					
Cash Severance (salary)	450,000	—	—	—	450,000
RSUs (vesting accelerated)	—	—	—	—	488,840
Total estimated value	450,000	—	—	—	938,840
<b>Bret Violette</b>					
Cash Severance (salary)	800,000	800,000	—	—	800,000
Guaranteed Bonus	1,000,000	1,000,000	—	—	1,000,000
RSUs (vesting accelerated)	2,101,268	2,101,268	—	2,101,268	2,370,468
Total estimated value	3,901,268	3,901,268	—	2,101,268	4,170,468
<b>Robert Harris(1)(2)</b>					
Cash Severance (salary)	325,000	325,000	—	—	325,000
RSUs (vesting accelerated)	299,700	299,700	—	507,496	1,618,457
Total estimated value	624,700	624,700	—	507,496	1,943,457
<b>Matthew Packey(1)</b>					
Cash Severance (salary)	—	—	—	—	—
RSUs (vesting accelerated)	2,073	—	1,669	29,720	330,012
Total estimated value	2,073	—	1,669	29,720	330,012

(1) Excludes, in all cases, LendingTree units held at December 31, 2007 (and, in the case of Mr. Lebda, that would accelerate upon the events set forth above), given that the value of these units as of that date was zero.

(2) One year's salary also payable upon a change in control of LendingTree.

## Tree.com Security Ownership of Certain Beneficial Owners and Management

As of the date hereof, all of Tree.com's outstanding shares of common stock are owned by IAC. After the distribution, IAC will no longer own any shares of Tree.com common stock. The following table presents information relating to the expected beneficial ownership of shares of Tree.com common stock, assuming completion of the distribution as if it occurred on April 30, 2008, by (i) each individual or entity expected to own beneficially more than 5% of the outstanding shares of Tree.com common stock, assuming that there are 278,735,546 shares of common stock and Class B common stock of IAC outstanding and a distribution ratio of one-thirtieth of a share of Tree common stock for every share of IAC common stock and/or Class B common stock, (ii) each director of Tree.com (iii) the Chief Executive Officer, the Chief Financial Officer and the other three named executive officers in the Tree.com summary compensation table (see "Tree.com Executive Compensation") and (iv) all of Tree.com's executive officers and directors as a group.

Unless otherwise indicated, beneficial owners listed here may be contacted at Tree.com's corporate headquarters at 11115 Rushmore Drive, Charlotte, North Carolina 28277. For each listed person, the number of shares of Tree.com common stock and percent of such class listed assumes the conversion or exercise of any Tree.com equity securities owned by such person that are or will become convertible or exercisable, and the exercise of stock options and the vesting of restricted stock units, if any, that will vest, within 60 days of April 30, 2008, but does not assume the conversion, exercise or vesting of any such equity securities owned by any other person.

The share amounts for each beneficial owner listed here are based on each such individual's beneficial ownership of shares of IAC common stock and/or Class B common stock as of April 30, 2008, and assuming a distribution ratio of one thirtieth of a share of Tree.com common stock for every share of IAC common stock and/or Class B common stock. To the extent that Tree.com directors and executive officers own shares of IAC common stock at the time of the distribution, they will participate in the distribution on the same terms as other holders of IAC common stock. In addition, following the distribution, Tree.com expects that all IAC stock-based awards held by these individuals will be adjusted to become awards relating to common stock of all five companies resulting from the spin-offs. Those awards that will relate to Tree.com common stock are reflected in the table below based upon the expected adjustment formula described under the caption "The Separation—Treatment of Outstanding IAC Compensatory Equity-Based Awards."

The actual number of shares of Tree.com capital stock outstanding as of the date of the distribution may differ due, among other things, to the exercise of stock options or warrants or the

vesting of restricted stock units, in each case, between April 30, 2008 and the date of the distribution and to the extent the other assumptions set forth above differ from actual developments.

Name and Address of Beneficial Owner	Tree.com Common Stock	
	Shares	%
Clearbridge Advisors, LLC, <i>et al.</i> (1)(2) 399 Park Avenue New York, NY 10022	441,885	4.75
Lord Abbett & Co. LLC(1)(2) 90 Hudson Street, 11th Floor Jersey City, NJ 07302	1,306,628	14.06
Liberty Media Corporation(4)(5) 12300 Liberty Boulevard Englewood, CO 80112	2,773,993	29.86
Scott Cammar(5)	45	*
Robert Harris(5)	10	*
Peter C. Horan	207	*
Douglas Lebda(5)	13,743	*
Joseph Levin(5)	85	*
Lance Melber	—	—
David Norris(5)	—	—
Steven Ozonian	—	—
Matthew Packey(5)	65	*
Bret Violette(5)	878	*
All executive officers and directors as a group (10 persons)	15,033	*

\* The percentage of shares beneficially owned does not exceed 1%.

- (1) We have not been able to determine the person or persons controlling the fund through publicly available information.
- (2) Based upon information regarding IAC holdings reported on a Schedule 13G, as amended, which was filed with the SEC on February 14, 2008 and a distribution ratio of one-thirtieth of a share of Tree common stock for every share of IAC common stock and/or Class B common stock.
- (3) Liberty Media Corporation is a publicly traded corporation. According to Liberty Media Corporation's Schedule 14A, filed April 24, 2008, Liberty's chairman, John C. Malone, controls 33% of the voting power of Liberty Media Corporation.
- (4) Based on 58,796,381 shares of IAC common stock held by Liberty and 4,000,000, 15,618,230, 4,005,190 and 800,006 shares of IAC Class B common stock held by each of BDTV Inc., BDTV II Inc., BDTV III Inc. and BDTV IV Inc., respectively and a distribution ratio of one-thirtieth of a share of Tree common stock for every share of IAC common stock and/or Class B common stock.
- (5) Excludes any equity awards that will vest upon completion of the spin-offs.

**General**

The following is a summary of information concerning the capital stock of the Company. The summaries and descriptions below do not purport to be complete statements of the relevant provisions of the Amended and Restated Certificate of Incorporation of the Company or its by-laws. The summary is qualified by reference to these documents, which you must read for complete information on the capital stock of the Company. The Amended and Restated Certificate of Incorporation and by-laws of the Company are included as exhibits to the Company's registration statement on Form S-1, of which this prospectus is a part.

**Distributions of Securities**

In the past three years, the Company has not sold any securities, including sales of reacquired securities, new issues, securities issued in exchange for property, services, or other securities, and new securities resulting from the modification of outstanding securities, that were not registered under the Securities Act.

**Common Stock**

Immediately following the spin-off, our authorized capital stock will consist of 50,000,000 shares of common stock, par value \$0.01 per share, and the preferred stock described below.

*Shares Outstanding.* Immediately following the spin-off, we expect that the number of shares of common stock that we will have issued and outstanding will be approximately 9.29 million shares of common stock, par value \$0.01 per share (based on a distribution ratio of one-thirtieth of a share of Tree.com for each share of IAC common stock and Class B common stock outstanding). This is based upon approximately 253,135,548 shares of IAC common stock and 25,599,998 shares of IAC Class B common stock outstanding as of March 31, 2008.

*Dividends.* Subject to prior dividend rights of the holders of any preferred shares, holders of shares of common stock of the Company are entitled to receive dividends when, as and if declared by its board of directors out of funds legally available for that purpose.

*Voting Rights.* Each share of common stock is entitled to one vote on all matters submitted to a vote of stockholders. Holders of shares of common stock do not have cumulative voting rights. In other words, a holder of a single share of our common stock cannot cast more than one vote for each position to be filled on our board of directors.

*Other Rights.* In the event of any liquidation, dissolution or winding up of the Company after the satisfaction in full of the liquidation preferences of holders of any preferred shares, holders of shares of our common stock are entitled to ratable distribution of the remaining assets available for distribution to stockholders. Shares of common stock are not subject to redemption by operation of a sinking fund or otherwise. Holders of shares of common stock are not currently entitled to preemptive rights.

*Fully Paid.* The issued and outstanding shares of our common stock are fully paid and non-assessable. This means the full purchase price for the outstanding shares of common stock has been paid and the holders of such shares will not be assessed any additional amounts for such shares. Any additional shares of common stock that we may issue in the future will also be fully paid and non-assessable.

## Preferred Stock

Tree.com is authorized to issue up to 5,000,000 shares of preferred stock, par value \$.01 per share. Our board of directors, without further action by the holders of our common stock, may issue shares of preferred stock. The board of directors is vested with the authority to fix by resolution the designations, preferences and relative, participating, optional or other special rights, and such qualifications, limitations or restrictions thereof, including, without limitation, redemption rights, dividend rights, liquidation preferences and conversion or exchange rights of any class or series of preferred stock, and to fix the number of classes or series of preferred stock, the number of shares constituting any such class or series and the voting powers for each class or series.

The authority possessed by our board of directors to issue preferred stock could potentially be used to discourage attempts by third parties to obtain control of the Company through a merger, tender offer, proxy contest or otherwise by making such attempts more difficult or more costly. Our board of directors may issue preferred stock with voting rights or conversion rights that, if exercised, could adversely affect the voting power of the holders of our common stock. There are no current agreements or understandings with respect to the issuance of preferred stock and the board of directors does not have a present intention to issue any shares of preferred stock.

### Restrictions on Payment of Dividends

The Company is incorporated in Delaware and is governed by Delaware law. Delaware law allows a corporation to pay dividends only out of surplus, as determined under Delaware law.

### Section 203 of the Delaware General Corporation Law

Section 203 ("Section 203") of the Delaware General Corporation Law prohibits certain transactions between a Delaware corporation and an "interested stockholder." Generally, an "interested stockholder" for this purpose is a stockholder who is directly or indirectly a beneficial owner of 15% or more of the outstanding voting power of a Delaware corporation. This provision, if applicable, prohibits certain business combinations between an interested stockholder and a corporation for a period of three years after the date on which the stockholder became an interested stockholder, unless: (1) the transaction which resulted in the stockholder becoming an interested stockholder is approved by the corporation's board of directors before the stockholder became an interested stockholder, (2) the interested stockholder acquired at least 85% of the voting power (as calculated pursuant to Section 203) of the corporation in the transaction in which the stockholder became an interested stockholder, or (3) the business combination is approved by a majority of the board of directors and the affirmative vote of the holders of two-thirds of the outstanding voting power not owned by the interested stockholder at or subsequent to the time that the stockholder became an interested stockholder. These restrictions do not apply in certain circumstances, including if the corporation's certificate of incorporation contains a provision expressly electing not to be governed by Section 203. If such a provision is adopted by an amendment to the corporation's certificate of incorporation, the amendment will be effective immediately if, among other requirements, the corporation has never had a class of voting stock listed on a national securities exchange or held of record by more than 2,000 stockholders. If this and other requirements are not satisfied, the amendment will not be effective until 12 months after its adoption and will not apply to any business combination between the corporation and any person who became an interested stockholder on or prior to such adoption.

In accordance with Section 203, the restrictions on certain business combinations in Section 203 will not apply in respect of the Company following the spin-off.

Some provisions of our Amended and Restated Certificate of Incorporation and by-laws and certain provisions of Delaware law could make the following more difficult:

- acquisition of the Company by means of a tender offer;
- acquisition of the Company by means of a proxy contest or otherwise; or
- removal of incumbent officers and directors of the Company.

***Size of Board and Vacancies***

Our Amended and Restated Certificate of Incorporation and by-laws provide that the number of directors on the Company's board of directors will be fixed exclusively by the board of directors. Newly created directorships resulting from any increase in the authorized number of directors will be filled by a majority of the directors then in office, provided that a majority of the entire board of directors, or a quorum, is present and any vacancies in the board of directors resulting from death, resignation, retirement, disqualification, removal from office or other cause will be filled generally by the majority vote of the remaining directors in office, even if less than a quorum is present.

***Elimination of Stockholder Action by Written Consent***

Our Amended and Restated certificate of incorporation and by-laws expressly eliminate the right of stockholders to act by written consent. Stockholder action must take place at the annual or a special meeting of the Company's stockholders.

***Stockholder Meetings***

Under our Amended and Restated Certificate of Incorporation and by-laws, stockholders are not entitled to call special meetings of stockholders; only a majority of our board of directors or specified individuals may call such meetings.

***Requirements for Advance Notification of Stockholder Nominations and Proposals***

Our by-laws establish advance notice procedures with respect to stockholder proposals and nomination of candidates for election as directors other than nominations made by or at the direction of the board of directors or a committee of the board of directors. In particular, stockholders must notify the corporate secretary in writing prior to the meeting at which the matters are to be acted upon or directors are to be elected. The notice must contain the information specified in our Amended and Restated by-laws. To be timely, the notice must be received at the Company's principal executive office not later than 60 or more than 90 days prior to the first anniversary of the date for the preceding year's annual meeting of stockholders. However, if the date of the annual meeting is advanced more than 30 days prior to or delayed by more than 30 days after the anniversary of the preceding year's annual meeting, notice by the stockholder, to be timely, must be delivered no later than the close of business on the later of the 90th day prior to such annual meeting or the 10th day following the day on which public announcement of the date of such meeting is first made. Moreover, in the event that the number of directors to be elected to the board of directors is increased and there is no public announcement by the Company naming all of the nominees for director or specifying the size of the increased board of directors at least 55 days prior to the first anniversary of the date on which the Company first mailed its proxy materials for the preceding year's annual meeting of stockholders, the stockholder's notice will be considered timely, but only with respect to nominees for any new positions created by such increase, if it is delivered to the corporate secretary at the principal executive offices of the Company not later than the close of business on the 10th day following the day on which such public announcement is first made by the Company.

### ***Undesignated Preferred Stock***

The authorization in our Amended and Restated Certificate of Incorporation with respect to the issuance of undesignated preferred stock makes it possible for the our board of directors to issue preferred stock with voting or other rights or preferences that could impede the success of any attempt to change control of the Company. The provision in our Amended and Restated Certificate of Incorporation authorizing such preferred stock may have the effect of deferring hostile takeovers or delaying changes of control of the Company's management.

### **NASDAQ Listing**

The Company has been approved to list its shares of common stock on NASDAQ and expects that its shares will trade under the ticker symbol "TREE."

### **Resale of Tree.com Common Stock**

As security holders, you will be subject to applicable provisions of the Exchange Act and the rules and regulations thereunder, which provisions may limit the timing of purchases and sales of our securities by you. In addition, if you are deemed an "affiliate" of Tree.com (as defined in Rule 405 of the Securities Act), the securities offered hereby may be deemed "restricted securities" (as defined in Rule 144 under the Securities Act) notwithstanding their registration under this registration statement. As a result you will not be able to sell the securities offered hereby absent an effective registration statement covering such sales or an available exemption from registration under the Securities Act.

**Agreements with Liberty Media Corporation**

In May 2008, in connection with the settlement of litigation relating to the proposed spin-offs, IAC entered into a "Spinco Agreement" with Liberty and affiliates of Liberty that hold shares of IAC common stock and/or Class B common stock (together with Liberty, the "Liberty Parties"), among others. At the time of the spin-offs, each Spinco will assume from IAC all of those rights and obligations under the Spinco Agreement providing for post-spin-off governance arrangements at the Spinco. As of April 30, 2008, Liberty may be deemed to beneficially own (within the meaning of Rule 13d-3 under the Exchange Act) 83,219,807 shares of IAC common stock that consists of shares of common stock and Class B common stock. Such shares constitute 29.9% of the outstanding shares of IAC common stock. Immediately following the spin-offs, it is expected that Liberty will beneficially own shares of common stock in each of the Spincos representing approximately 29.9% of the outstanding common stock of each of the Spincos. The following summary describes the material terms of those governance arrangements and related matters and is qualified by reference to the full Spinco Agreement, which has been filed as an exhibit to each of the Form S-1 registration statements of the Spinco. The Spinco Agreement also requires each Spinco to enter into a registration rights agreement with the Liberty Parties at the time of the spin-offs, as described below.

**Spinco Agreement**

*Representation of Liberty on the Spinco Boards of Directors*

The Spinco Agreement generally provides that so long as Liberty beneficially owns securities of a Spinco representing at least 20% of the total voting power of the Spinco's equity securities, Liberty has the right to nominate up to 20% of the directors serving on the Spinco Board of Directors (rounded up to the nearest whole number). Any director nominated by Liberty must be reasonably acceptable to a majority of the directors on the Spinco's Board who were not nominated by Liberty. All but one of Liberty's nominees serving on the Spinco Board of directors must qualify as "independent" under applicable stock exchange rules. In addition, the Nominating and/or Governance committee of the Spinco Board may include only "Qualified Directors," namely directors other than any who were nominated by Liberty, are officers or employees of the Spinco or were not nominated by the Nominating and/or Governance Committee of the Spinco's Board in their initial election to the Board and for whose election any Liberty Party voted shares.

Until the second anniversary of the spin-off of a Spinco, the Liberty Parties agreed to vote all of the equity securities of a Spinco beneficially owned by them in favor of the election of the full slate of director nominees recommended to stockholders by the Spinco Board of Directors so long as the slate includes the director-candidates that Liberty has the right to nominate.

*Acquisition Restrictions*

The Liberty Parties have agreed in the Spinco Agreement not to acquire beneficial ownership of any equity securities of a Spinco (with specified exceptions) unless:

- the acquisition was approved by a majority of the Qualified Directors;
- the acquisition is permitted under the provisions described in "Competing Offers" below; or
- after giving effect to the acquisition, Liberty's ownership percentage of the equity securities of the Spinco, based on voting power, would not exceed the Applicable Percentage.

The "Applicable Percentage" initially is Liberty's ownership percentage upon the spin-off of a Spinco, based on voting power (expected to be approximately 30%), plus 5%, but in no event more than 35%. Following a spin-off, the Applicable Percentage for the Spinco will be reduced for specified

transfers of equity securities of the Spinco by the Liberty Parties. During the first two years following the spin-off of a Spinco, acquisitions by the Liberty Parties are further limited to specified extraordinary transactions and, otherwise, to acquisitions representing no more than one-third of the Spinco Common Stock received by the Liberty Parties in the spin-off.

#### *Standstill Restrictions*

Until the second anniversary of the spin-off, unless a majority of the Qualified Directors consent or to the extent permitted by the provisions described under "Acquisition Restrictions" or "Competing Offers" or in certain other limited circumstances, no Liberty Party may:

- offer to acquire beneficial ownership of any equity securities of such Spinco;
- initiate or propose any stockholder proposal or seek or propose to influence, advise, change or control the management, Board of Directors, governing instruments or policies or affairs of such Spinco;
- offer, seek or propose, collaborate on or encourage any merger or other extraordinary transaction;
- subject any equity securities of such Spinco to a voting agreement;
- make a request to amend any of the provisions described under "Acquisition Restrictions", "Standstill Restrictions" or "Competing Offers";
- make any public disclosure, or take any action which could reasonably be expected to require such Spinco to make any public disclosure, with respect to any of the provisions described under "Standstill Restrictions"; or
- enter into any discussions, negotiations, arrangements or understandings with any third party with respect to any of the provisions described under "Standstill Restrictions".

#### *Transfer Restrictions*

Unless a majority of the Qualified Directors consent, the Spinco Agreement prohibits transfers by the Liberty Parties of any equity securities of a Spinco to any person except for certain transfers, including:

- transfers under Rule 144 under the Securities Act (or, if Rule 144 is not applicable, in "broker transactions");
- transfers pursuant to a third party tender or exchange offer or in connection with any merger or other business combination, which merger or business combination has been approved by the Spinco;
- transfers in a public offering in a manner designed to result in a wide distribution, provided that no such transfer is made, to the knowledge of the Liberty Parties, to any person whose ownership percentage (based on voting power) of the Spinco's equity securities, giving effect to the transfer, would exceed 15%;
- a transfer of all of the equity securities of the Spinco beneficially owned by the Liberty Parties and their affiliates in a single transaction if the transferee's ownership percentage (based on voting power), after giving effect to the transfer, would not exceed the Applicable Percentage and only if the transferee assumes all of the rights and obligations (subject to limited exceptions) of the Liberty Parties under the Spinco Agreement relating to the Spinco;

- specified transfers in connection with changes in the beneficial ownership of the ultimate parent company of a Liberty Party or a distribution of the equity interests of a Liberty Party or certain similar events; and
- specified transfers relating to certain hedging transactions or stock lending transactions in respect of the Liberty Parties' equity securities in the Spinco, subject to specified restrictions.

During the first two years following the applicable spin-off, transfers otherwise permitted by the first and third bullets above will be prohibited, and transfers otherwise permitted by the fourth and sixth bullets above in respect of which IAC and the Spinco do not make certain determinations with respect to the transferee will be prohibited, unless such transfers represent no more than one-third of the Spinco Common Stock received by the Liberty Parties in the spin-off.

#### *Competing Offers*

During the period when Liberty continues to have the right to nominate directors to a Spinco's Board of Directors, if the Spinco's Board of Directors determines to pursue certain types of transactions on a negotiated basis (either through an "auction" or with a single bidder), Liberty is granted certain rights to compete with the bidder or bidders, including the right to receive certain notices and information, subject to specified conditions and limitations. In connection with any such transaction that the Spinco is negotiating with a single bidder, the Spinco's Board must consider any offer for a transaction made in good faith by Liberty but is not obligated to accept any such offer or to enter into negotiations with Liberty.

If a third party (x) commences a tender or exchange offer for at least 35% of the capital stock of the Spinco other than pursuant to an agreement with the Spinco or (y) publicly discloses that its ownership percentage (based on voting power) exceeds 20% and the Spinco's Board fails to take certain actions to block such third party from acquiring an ownership percentage of the Spinco (based on voting power) exceeding the Applicable Percentage, the Liberty Parties generally will be relieved of the obligations described under "Standstill Restrictions" and "Acquisition Restrictions" above to the extent reasonably necessary to permit Liberty to commence and consummate a competing offer. If Liberty's ownership percentage (based on voting power) as a result of the consummation of a competing offer in response to a tender or exchange offer described in (x) above exceeds 50%, any consent or approval requirements of the Qualified Directors in the Spinco Agreement will be terminated, and, following the later of the second anniversary of the applicable spin-off and the date that Liberty's ownership percentage (based on voting power) exceeds 50%, the obligations described under "Acquisition Restrictions" will be terminated.

#### *Other*

Following the spin-off of a Spinco, amendments to the Spinco Agreement and determinations required to be made thereunder (including approval of transactions between a Liberty Party and the Spinco that would be reportable under the proxy rules) will require the approval of the Qualified Directors.

#### **Registration Rights Agreement**

As indicated above under "Spinco Agreement," each Spinco will grant to Liberty the registration rights described below at the time of its spin-off.

Under the registration rights agreement, the Liberty Parties and their permitted transferees (the "Holders") will be entitled to three demand registration rights (and unlimited piggyback registration rights) in respect of the shares of Spinco common stock received by the Liberty Parties as a result of the Spinco's spin-off and other shares of Spinco common stock acquired by the Liberty Parties

consistent with the Spinco Agreement (collectively, the "Registrable Shares"). The Holders will be permitted to exercise their registration rights in connection with certain hedging transactions that they may enter into in respect of the Registrable Shares.

The Spinco will be obligated to indemnify the Holders, and each selling Holder will be obligated to indemnify the Spinco, against specified liabilities in connection with misstatements or omissions in any registration statement.

### **Relationships Among IAC and the Spincos**

Following the spin-offs, the relationships among IAC and the Spincos will be governed by a number of agreements. These agreements include, among others:

- a Separation and Distribution Agreement;
- a Tax Sharing Agreement;
- an Employee Matters Agreement; and
- a Transition Services Agreement (collectively, the "Spin-Off Agreements").

The Spin-Off Agreements will be filed as exhibits to the respective registration statement on Form S-1 of each of the Spincos, of which this prospectus is a part, and the summaries of each such agreement are qualified by reference to the full text of the applicable agreement.

#### *Separation and Distribution Agreement*

The Separation and Distribution Agreement will set forth the arrangements among IAC and each of the Spincos regarding the principal transactions necessary to separate each of the Spincos from IAC, as well as govern certain aspects of the relationship of a Spinco with IAC and other Spincos after the completion of the spin-offs.

Each Spinco will agree to indemnify, defend and hold harmless (and to cause the other members of its respective group to indemnify, defend and hold harmless), under the Separation and Distribution Agreement, IAC and each of the other Spincos, and each of their respective current and former directors, officers and employees, from and against any losses arising out of any breach by such indemnifying companies of the Spin-Off Agreements, any failure by such indemnifying company to assume and perform any of the liabilities allocated to such company and any liabilities relating to the indemnifying company's financial and business information included in filings made with the SEC in connection with the spin-offs. IAC will agree to indemnify, defend and hold harmless each of the Spincos, and each of their respective current and former directors, officers and employees, from and against losses arising out of any breach by IAC of the Spin-Off Agreements, and any failure by IAC to perform its obligations under the Separation and Distribution Agreement or any Spin-Off Agreement.

In addition, the Separation and Distribution Agreement will also govern insurance and related reimbursement arrangements, provision and retention of records, access to information and confidentiality, cooperation with respect to governmental filings and third party consents and access to property.

#### *Tax Sharing Agreement*

The Tax Sharing Agreement governs the respective rights, responsibilities and obligations of IAC and each Spinco after the spin-off of such Spinco with respect to taxes for periods ending on or before the spin-off of such Spinco. In general, pursuant to the Tax Sharing Agreement, IAC will prepare and file the consolidated federal income tax return, and any other tax returns that include IAC (or any of its subsidiaries) and a Spinco (or any of its subsidiaries) for all taxable periods ending on or prior to, or

including, the distribution date of such Spinco with the appropriate tax authorities, and, except as otherwise set forth below, IAC will pay any taxes relating thereto to the relevant tax authority (including any taxes attributable to an audit adjustment with respect to such returns; provided that IAC will not be responsible for audit adjustments relating to the business of a Spinco (or any of its subsidiaries) with respect to pre-spin off periods if such Spinco fails to fully cooperate with IAC in the conduct of such audit). Each Spinco will prepare and file all tax returns that include solely such Spinco and/or its subsidiaries and any separate company tax returns for such Spinco and/or its subsidiaries for all taxable periods ending on or prior to, or including, the distribution date of such Spinco, and will pay all taxes due with respect to such tax returns (including any taxes attributable to an audit adjustment with respect to such returns). In the event an adjustment with respect to a pre-spin off period for which IAC is responsible results in a tax benefit to a Spinco in a post-spin off period, such Spinco will be required to pay such tax benefit to IAC. In general, IAC controls all audits and administrative matters and other tax proceedings relating to the consolidated federal income tax return of the IAC group and any other tax returns for which the IAC group is responsible.

Under the Tax Sharing Agreement a Spinco generally (i) may not take (or fail to take) any action that would cause any representation, information or covenant contained in the separation documents or the documents relating to the IRS private letter ruling and the tax opinion regarding the spin-off of such Spinco to be untrue, (ii) may not take (or fail to take) any other action that would cause the spin-off of such Spinco to lose its tax free status, (iii) may not sell, issue, redeem or otherwise acquire any of its equity securities (or equity securities of members of its group), except in certain specified transactions for a period of 25 months following the spin-off of such Spinco and (iv) may not, other than in the ordinary course of business, sell or otherwise dispose of a substantial portion of its assets, liquidate, merge or consolidate with any other person for a period of 25 months following the spin-off.

Because IAC has an unrealized loss, for federal income tax purposes, in the stock of Tree.com, it is not necessary to subject Tree.com to the same restrictions as the other Spinco's with respect to acquisitions of Spinco equity securities after 12 months following the spin-off. Nonetheless, Tree.com will be subject to other restrictions that apply to the Spinco's during the 25-month period following the spin-off (such as disposing certain assets, engaging in mergers and acquisitions, agreeing to be acquired, and, under certain circumstances, acquiring businesses or assets with equity securities), which restrictions are designed to preserve the tax-free nature of the spin-offs to IAC shareholders.

During the 25-month period, a Spinco may take certain actions prohibited by these covenants if (i) it obtains IAC's prior written consent, (ii) it provides IAC with an IRS private letter ruling or an unqualified opinion of tax counsel to the effect that such actions will not affect the tax free nature of the spin-off of such Spinco, in each case satisfactory to IAC in its sole discretion, or (iii) IAC obtains a private letter ruling at such Spinco's request. In addition, with respect to actions or transactions involving acquisitions of Spinco stock entered into at least 18 months after the distribution of such Spinco, such Spinco will be permitted to proceed with such transaction if it delivers an unconditional officer's certificate establishing facts evidencing that such acquisition satisfies the requirements of a specified safe harbor set forth in applicable U.S. Treasury Regulations, and IAC, after due diligence, is satisfied with the accuracy of such certification.

Notwithstanding the receipt of any such IRS ruling, tax opinion or officer's certificate, generally each Spinco must indemnify IAC and each other Spinco for any taxes and related losses resulting from (i) any act or failure to act by such Spinco described in the covenants above, (ii) any acquisition of equity securities or assets of such Spinco or any member of its group, and (iii) any breach by such Spinco or any member of its group of any representation or covenant contained in the separation documents or the documents relating to the IRS private letter ruling or tax opinion concerning the spin-off of such Spinco.

Under U.S. federal income tax law, IAC and the Spinco's are severally liable for all of IAC's federal income taxes attributable to periods prior to and including the current taxable year of IAC,

which ends on December 31, 2008. Thus, if IAC failed to pay the federal income taxes attributable to it under the Tax Sharing Agreement for periods prior to and including the current taxable year of IAC, the Spincos would be severally liable for such taxes. In the event a Spinco is required to make a payment in respect of a spin-off related tax liability of the IAC consolidated federal income tax return group under these rules for which such Spinco is not responsible under the Tax Sharing Agreement and full indemnification cannot be obtained from the Spinco responsible for such payment under the Tax Sharing Agreement, IAC will indemnify the Spinco that was required to make the payment from and against the portion of such liability for which full indemnification cannot be obtained from the Spinco responsible for such payment under the Tax Sharing Agreement.

The Tax Sharing Agreement also contains provisions regarding the apportionment of tax attributes of the IAC consolidated federal income tax return group, the allocation of deductions with respect to compensatory equity interests, cooperation, and other customary matters. In general, tax deductions arising by reason of exercises of options to acquire IAC or Spinco stock, vesting of "restricted" IAC or Spinco stock, or settlement of restricted stock units with respect to IAC or Spinco stock held by any person will be claimed by the party that employs such person at the time of exercise, vesting or settlement, as applicable (or in the case of a former employee, the party that last employed such person).

#### *Employee Matters Agreement*

The employee matters agreement covers a wide range of compensation and benefit issues related to the spin-offs. In general, under the employee matters agreement:

- IAC will assume or retain (i) all liabilities with respect to IAC employees, former IAC employees (excluding any former employees of the Spincos) and their dependents and beneficiaries under all IAC employee benefit plans, and (ii) all liabilities with respect to the employment or termination of employment of all IAC employees, former IAC employees (excluding any former employees of the Spincos) and their dependents and beneficiaries.
- Each Spinco will assume or retain (i) all liabilities under its employee benefit plans, and (ii) all liabilities with respect to the employment or termination of employment of all such Spinco's employees, former employees and their dependents and beneficiaries.

Subject to a transition period through the end of 2008 with respect to health and welfare benefits, after the spin-offs, the Spincos no longer will participate in IAC's employee benefit plans, but will have established their own employee benefit plans that are currently expected to be substantially similar to the plans sponsored by IAC prior to the spin-offs. Through the end of 2008, IAC will continue to provide health and welfare benefits to employees of the Spincos and each Spinco will bear the cost of this coverage with respect to its employees. Assets and liabilities from the IAC Retirement Savings Plan relating to Spinco employees and former employees will be transferred to the applicable, newly established Spinco Retirement Savings Plan as soon as practicable following the spin-offs. For a description of the treatment of outstanding IAC equity awards pursuant to the employee matters agreement, see "The Separation—Treatment of Outstanding IAC Compensatory Equity-Based Awards."

#### *Transition Services Agreement*

Pursuant to a transition services agreement among IAC and the Spincos, each of IAC and the Spincos currently expect that some combination of the following services, among others, will be provided by/to the parties (and/or their respective businesses) as set forth below on an interim, transitional basis following completion of the spin-offs:

- assistance with certain legal, finance, internal audit, human resources, insurance and tax affairs, including assistance with certain public company functions, from IAC to the Spincos;

- continued coverage/participation for employees of the Spinco(s) under IAC health and welfare plans on the same basis as immediately prior to the distribution;
- the leasing/subleasing of office and/or data center space by IAC and its businesses to various Spinco(s) (and vice versa);
- assistance with the implementation and hosting of certain software applications by/from IAC and its businesses for various Spinco(s) (and vice versa);
- call center and customer relations services by Ticketmaster to IAC's Reserve America business and Tree.com;
- payroll processing services by Ticketmaster to certain IAC businesses and an ILG business and by HSNi to IAC;
- tax compliance services by HSNi to ILG and accounting services by Ticketmaster to IAC; and
- such other services as to which any Spinco(s) and IAC may agree.

The charges for these services will be on a cost plus fixed percentage or hourly rate basis to be agreed upon prior to the completion of the spin-offs. In general, the services to be provided by/to the parties (and/or their respective businesses) will begin on the date of the completion of the spin-offs and will cover a period generally not expected to exceed 12 months following the spin-offs. Any party may terminate the agreement with respect to one or more particular services being received by it upon such notice as will be provided for in the transition services agreement.

#### *Commercial Agreements*

Each of the Spinco(s) currently, and for the foreseeable future, expect to provide certain services to each other pursuant to certain commercial relationships with IAC and/or other Spinco(s). Additionally, in connection with the spin-offs, each Spinco is expected to enter or has entered into various commercial agreements, primarily in the form of leases and distribution and services agreements, between their subsidiaries, on the one hand, and subsidiaries of IAC and/or one or more other Spinco(s), on the other hand, many of which will memorialize (in most material respects) pre-existing arrangements in effect prior to the spin-offs and which are intended to reflect arm's length terms and none of which is expected to constitute a material contract to the applicable Spinco. Below is a brief description of such agreements that, individually or together with similar agreements, involve revenues to either IAC or a Spinco in excess of \$120,000. Distribution agreements generally involve the payment of fees (usually on a fixed-per-transaction, revenue sharing or commission basis) from the party seeking distribution of the product or service to the party that is providing the distribution.

**HSNi.** Certain subsidiaries of HSNi distribute their respective products and services via arrangements with certain subsidiaries of IAC and/or other Spinco(s) (and vice versa). For example, HSNi sells merchandise on behalf of Shoebuy through HSN and various Cornerstone brands.

Aggregate revenues earned in respect of commercial agreements between HSNi and IAC by HSNi subsidiaries from businesses that IAC will own following the distribution were approximately \$320,000 in 2007. Aggregate payments made by HSNi subsidiaries to IAC subsidiaries in respect of these commercial agreements were approximately \$1.8 million in 2007. Such numbers include payments to and received from Entertainment Publications, Inc., which was sold by IAC subsequent to December 31, 2007.

**ILG.** Certain subsidiaries of ILG distribute their respective products and services via arrangements with certain subsidiaries of IAC and/or other Spinco(s) (and vice versa). For example, Interval promotes and distributes ticketing services for certain events, either through advance access or by passing along a deeper discount to its members via a link to the Ticketmaster booking engine.

Aggregate revenues earned in respect of commercial agreements between ILG and IAC by ILG subsidiaries from businesses that IAC will own following the distribution were not material in 2007. Aggregate payments made by ILG subsidiaries to IAC subsidiaries in respect of these agreements were approximately \$2.1 million in 2007. Such numbers include payments to and received from Entertainment Publications, Inc., which was sold by IAC subsequent to December 31, 2007.

**Ticketmaster.** Certain subsidiaries of Ticketmaster (i) distribute their respective products and services via arrangements with certain subsidiaries of IAC and/or other Spincos (and vice versa), (ii) provide certain subsidiaries of IAC and/or other Spincos with various services (and vice versa) and/or (iii) lease office space from IAC. For example:

- Ticketmaster leases its corporate headquarters in California, as well as office space for its New York City operations at IAC's headquarters, from IAC; and
- IAC's Advertising Solutions business acts as a sales agent for Ticketmaster in connection with the sale of advertising on *www.ticketmaster.com* and websites of other Ticketmaster businesses.

Aggregate revenues earned in respect of commercial agreements between Ticketmaster and IAC by Ticketmaster subsidiaries from businesses that IAC will own following the distribution were approximately \$12.2 million in 2007. Aggregate payments made by Ticketmaster subsidiaries to IAC and its subsidiaries in respect of commercial agreements were approximately \$4.2 million in 2007. Such numbers include payments to and received from Entertainment Publications, Inc., which was sold by IAC subsequent to December 31, 2007.

**Tree.com.** Certain subsidiaries of Tree.com (i) distribute their respective products and services via arrangements with certain subsidiaries of IAC and/or other Spincos (and vice versa), (ii) provide certain subsidiaries of IAC and/or other Spincos with various services (and vice versa) and/or (iii) lease office space from IAC. For example:

- Tree.com licenses certain real estate information to IAC's Ask.com business for use in connection with real estate related search results;
- IAC's Ask.com and Citysearch businesses provide search engine marketing services and advertising to Tree.com businesses; and
- Tree.com has agreed to provide certain mortgage brokerage services to a joint venture in which IAC is a party.

Aggregate revenues earned in respect of commercial agreements between Tree.com and IAC by Tree.com subsidiaries from businesses that IAC will own following the distribution were approximately \$300,000 in 2007. Aggregate payments made by Tree.com subsidiaries to IAC subsidiaries in respect of these commercial agreements were approximately \$400,000 in 2007. Such numbers include payments to and received from Entertainment Publications, Inc., which was sold by IAC subsequent to December 31, 2007.

#### **Certain Other Relationships and Related Person Transactions**

We are currently subject to the policies and procedures of IAC regarding the review and approval of related person transactions. Immediately prior to the spin-off, we will adopt a formal written policy governing the review and approval of related person transactions. We expect that the policies we implement will require the management of the Company to determine whether any proposed transaction, arrangement or relationship with a related person fell within the definition of "transaction" set forth in Item 404(a) of Regulation S-K under the Securities Act, and if so, will require management to submit such transaction to the Company's Audit Committee for approval. The Audit Committee, in considering whether to approve related person transactions, would then consider all facts and circumstances that it deemed relevant.

## DESCRIPTION OF THE STOCK AND ANNUAL INCENTIVE PLAN

### Introduction

Prior to the completion of the spin-off, Tree.com expects to adopt the Tree.com, Inc. 2008 Stock and Annual Incentive Plan. The purpose of the plan will be to assist Tree.com in attracting, retaining and motivating officers and employees, and to provide Tree.com with the ability to provide incentives more directly linked to the profitability of our businesses and increases in stockholder value. In addition, the plan is expected to provide for the assumption of awards pursuant to the adjustment of awards granted under current plans of IAC and its subsidiaries. See "The Separation—Treatment of Outstanding IAC Compensatory Equity Based Awards." Tree.com was incorporated in 2008 and has not yet completed its first fiscal year.

### Description

The Stock and Annual Incentive Plan is expected to contain important features that are summarized below.

### Administration

The Stock and Annual Incentive Plan will be administered by the Compensation Committee or such other committee of the Board as the Tree.com Board of Directors may from time to time designate (the "Committee"). Among other things, the Committee will have the authority to select individuals to whom awards may be granted, to determine the type of award as well as the number of shares of Tree.com common stock to be covered by each award, and to determine the terms and conditions of any such awards.

### Eligibility

In addition to individuals who hold outstanding adjusted awards, persons who serve or agree to serve as officers, employees, non-employee directors or consultants of Tree.com and its subsidiaries and affiliates will be eligible to be granted awards under the Stock and Annual Incentive Plan (other than adjusted awards that are assumed in connection with the spin-offs).

### Shares Subject to the Plan

The Stock and Annual Incentive Plan will authorize the issuance of up to 2,200,000 shares of Tree.com common stock pursuant to new awards under the plan, plus shares to be granted pursuant to the assumption of outstanding adjusted awards. No single participant may be granted awards covering in excess of 1,466,666 shares of Tree.com common stock over the life of the Stock and Annual Incentive Plan.

The shares of Tree.com common stock subject to grant under the Stock and Annual Incentive Plan are to be made available from authorized but unissued shares or from treasury shares, as determined from time to time by the Tree.com Board. Other than adjusted awards, to the extent that any award is forfeited, or any option or stock appreciation right terminates, expires or lapses without being exercised, or any award is settled for cash, the shares of Tree.com common stock subject to such awards not delivered as a result thereof will again be available for awards under the plan. If the exercise price of any option and/or the tax withholding obligations relating to any award are satisfied by delivering shares of Tree.com common stock (by either actual delivery or by attestation), only the number of shares of Tree.com common stock issued net of the shares of Tree.com common stock delivered or attested to will be deemed delivered for purposes of the limits in the plan. To the extent any shares of Tree.com common stock subject to an award are withheld to satisfy the exercise price (in the case of an option) and/or the tax withholding obligations relating to such award, such shares of Tree.com common

stock will not generally be deemed to have been delivered for purposes of the limits set forth in the plan.

In the event of certain extraordinary corporate transactions, the Committee or the Tree.com Board will be able to make such substitutions or adjustments as it deems appropriate and equitable to (1) the aggregate number and kind of shares or other securities reserved for issuance and delivery under the plan, (2) the various maximum limitations set forth in the plan, (3) the number and kind of shares or other securities subject to outstanding awards; and (4) the exercise price of outstanding options and stock appreciation rights.

As indicated above, several types of stock grants can be made under the Stock and Annual Incentive Plan. A summary of these grants is set forth below. The Stock and Annual Incentive Plan will govern options and restricted stock units that convert from existing IAC options and IAC restricted stock units in connection with the spin-offs, as well as other award grants made following the spin-offs pursuant to such plans. Notwithstanding the foregoing, the terms that govern IAC options and IAC restricted stock units that convert into options and restricted stock units of Tree.com in connection with the spin-offs will govern such options and restricted stock units to the extent inconsistent with the terms described below.

### **Stock Options and Stock Appreciation Rights**

Stock options granted under the Stock and Annual Incentive Plan may either be incentive stock options or nonqualified stock options. Stock appreciation rights granted under the plan may either be granted alone or in tandem with a stock option. The exercise price of options and stock appreciation rights cannot be less than 100% of the fair market value of the stock underlying the options or stock appreciation rights on the date of grant. Optionees may pay the exercise price in cash or, if approved by the Committee, in Tree.com common stock (valued at its fair market value on the date of exercise) or a combination thereof, or by "cashless exercise" through a broker or by withholding shares otherwise receivable on exercise. The term of options and stock appreciation rights will be as determined by the Committee, but an ISO may not have a term longer than ten years from the date of grant. The Committee will determine the vesting and exercise schedule of options and stock appreciation rights, and the extent to which they will be exercisable after the award holder's employment terminates. Generally, unvested options and stock appreciation rights terminate upon the termination of employment, and vested options and stock appreciation rights will remain exercisable for one year after the award holder's death, disability or retirement, and 90 days after the award holder's termination for any other reason. Vested options and stock appreciation rights will also terminate upon the optionee's termination for cause (as defined in the plan). Stock options and stock appreciation rights are transferable only by will or by the laws of descent and distribution, or pursuant to a qualified domestic relations order or in the case of nonqualified stock options or stock appreciation rights, as otherwise expressly permitted by the Committee including, if so permitted, pursuant to a transfer to the participant's family members, to a charitable organization, whether directly or indirectly or by means of a trust or partnership or otherwise.

### **Restricted Stock**

Restricted stock may be granted with such restriction periods as the Committee may designate. The Committee may provide at the time of grant that the vesting of restricted stock will be contingent upon the achievement of applicable performance goals and/or continued service. In the case of performance-based awards that are intended to qualify under Section 162(m)(4) of the Internal Revenue Code of 1986, as amended, (i) such goals will be based on the attainment of one or any combination of the following: specified levels of earnings per share from continuing operations, net profit after tax, EBITDA, EBITA, gross profit, cash generation, unit volume, market share, sales, asset quality, earnings per share, operating income, revenues, return on assets, return on operating assets,

return on equity, profits, total shareholder return (measured in terms of stock price appreciation and/or dividend growth), cost saving levels, marketing-spending efficiency, core non-interest income, change in working capital, return on capital and/or stock price, with respect to Tree.com or any subsidiary, division or department of Tree.com. Such performance goals also may be based upon the attaining of specified levels of Tree.com, subsidiary, affiliate or divisional performance under one or more of the measures described above relative to the performance of other entities, divisions or subsidiaries. Performance goals based on the foregoing factors are hereinafter referred to as "Performance Goals." The terms and conditions of restricted stock awards (including any applicable Performance Goals) need not be the same with respect to each participant. During the restriction period, the Committee may require that the stock certificates evidencing restricted shares be held by Tree.com. Restricted stock may not be sold, assigned, transferred, pledged or otherwise encumbered, and is forfeited upon termination of employment, unless otherwise provided by the Committee. Other than such restrictions on transfer and any other restrictions the Committee may impose, the participant will have all the rights of a stockholder with respect to the restricted stock award.

#### **Restricted Stock Units**

The Committee may grant restricted stock units payable in cash or shares of Tree.com common stock, conditioned upon continued service and/or the attainment of Performance Goals determined by the Committee. The terms and conditions of restricted stock unit awards (including any Performance Goals) need not be the same with respect to each participant.

#### **Other Stock-Based Awards**

Other awards of Tree.com common stock and other awards that are valued in whole or in part by reference to, or are otherwise based upon, Tree.com common stock, including (without limitation), unrestricted stock, dividend equivalents and convertible debentures, may be granted under the plan.

#### **Bonus Awards**

Bonus awards granted to eligible employees of Tree.com and its subsidiaries and affiliates under the Stock and Annual Incentive Plan will be based upon the attainment of the Performance Goals established by the Committee for the plan year or such shorter performance period as may be established by the Committee. Bonus amounts earned by any individual will be limited to \$10 million for any plan year, pro rated (if so determined by the Committee) for any shorter performance period. Bonus amounts will be paid in cash or, in the discretion of Tree.com, in Tree.com common stock, as soon as practicable following the end of the plan year. The Committee may reduce or eliminate a participant's bonus award in any year notwithstanding the achievement of Performance Goals.

#### **Change in Control**

In the event of a Change of Control (as defined in the Stock and Annual Incentive Plan), the Committee will have the discretion to determine the treatment of awards granted under the Stock and Annual Incentive Plan, including providing for the acceleration of such awards upon the occurrence of the Change of Control and/or upon a qualifying termination of employment (*e.g.*, without cause or for good reason) following the Change of Control.

#### **Amendment and Discontinuance**

The Stock and Annual Incentive Plan may be amended, altered or discontinued by the Tree.com Board, but no amendment, alteration or discontinuance may impair the rights of an optionee under an option or a recipient of an SAR, restricted stock award, restricted stock unit award or bonus award previously granted without the optionee's or recipient's consent. Amendments to the Stock and Annual

Incentive Plan will require stockholder approval to the extent such approval is required by law or agreement.

### **Federal Income Tax Consequences**

The following discussion is intended only as a brief summary of the federal income tax rules that are generally relevant to stock options. The laws governing the tax aspects of awards are highly technical and such laws are subject to change.

*Nonqualified Options.* Upon the grant of a nonqualified option, the optionee will not recognize any taxable income and IAC will not be entitled to a deduction. Upon the exercise of such an option or related SAR, the excess of the fair market value of the shares acquired on the exercise of the option or SAR over the exercise price or the cash paid under an SAR (the "spread") will constitute compensation taxable to the optionee as ordinary income. Tree.com, in computing its U.S. federal income tax, will generally be entitled to a deduction in an amount equal to the compensation taxable to the optionee, subject to the limitations of Code Section 162(m).

*ISOs.* An optionee will not recognize taxable income on the grant or exercise of an ISO. However, the spread at exercise will constitute an item includible in alternative minimum taxable income, and, thereby, may subject the optionee to the alternative minimum tax. Such alternative minimum tax may be payable even though the optionee receives no cash upon the exercise of the ISO with which to pay such tax.

Upon the disposition of shares of stock acquired pursuant to the exercise of an ISO, after the later of (i) two years from the date of grant of the ISO or (ii) one year after the transfer of the shares to the optionee (the "ISO Holding Period"), the optionee will recognize long-term capital gain or loss, as the case may be, measured by the difference between the stock's selling price and the exercise price. Tree.com is not entitled to any tax deduction by reason of the grant or exercise of an ISO, or by reason of a disposition of stock received upon exercise of an ISO if the ISO Holding Period is satisfied. Different rules apply if the optionee disposes of the shares of stock acquired pursuant to the exercise of an ISO before the expiration of the ISO Holding Period.

### **USE OF PROCEEDS**

We will not receive any proceeds from the distribution of our common stock in the spin-off. Any proceeds received by us from the exercise of the stock options covered by the Stock and Annual Incentive Plan will be used for general corporate purposes.

### **DETERMINATION OF OFFERING PRICE**

No consideration will be paid for the shares of common stock distributed in the spin-off.

### **LEGAL MATTERS**

The validity of the shares of our common stock issued in the spin-off will be passed upon by the General Counsel of IAC/InterActiveCorp. Certain tax matters will be passed upon by Wachtell, Lipton, Rosen & Katz.

### **EXPERTS**

The consolidated financial statements of Tree.com at December 31, 2007 and 2006 and for each of the three years in the period ended December 31, 2007 and the related financial statements schedule included in this prospectus have been so included in reliance on the reports of Ernst & Young LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

## WHERE YOU CAN FIND MORE INFORMATION

We have filed a registration statement on Form S-1 with the SEC with respect to the shares of our common stock being registered hereunder. This prospectus, which is a part of such registration statement, does not include all of the information that you can find in such registration statement or the exhibits to such registration statement. You should refer to the registration statement, including its exhibits and schedules, for further information about us and our common stock. Statements contained in this prospectus as to the contents of any contract or document are not necessarily complete and, if the contract or document is filed as an exhibit to a registration statement, is qualified in all respects by reference to the relevant exhibit.

After the spin-off, we will file annual, quarterly and current reports, proxy statements and other information with the SEC. The registration statement is, and any of these future filings with the SEC will be, available to the public over the Internet on the SEC's website at [www.sec.gov](http://www.sec.gov). You may read and copy any filed document at the SEC's public reference rooms in Washington, D.C. at 100 F Street, N.E., Washington, D.C. 20549 and at the SEC's regional offices in New York at 233 Broadway, New York, New York 10279 and in Chicago at Citicorp Center, 500 W. Madison Street, Suite 1400, Chicago, Illinois 60661. Please call the SEC at 1-800-SEC-0330 for further information about the public reference rooms.

**TREE.COM, INC. AND SUBSIDIARIES**  
**CONSOLIDATED FINANCIAL STATEMENTS**

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## Report of Independent Registered Public Accounting Firm

We have audited the accompanying consolidated balance sheets of Tree.com, Inc. and subsidiaries as of December 31, 2007 and 2006, and the related consolidated statements of operations, shareholders' equity, and cash flows for each of the three years in the period ended December 31, 2007. Our audits also included the financial statement schedule on page F-35. These financial statements and financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and the financial statement schedule based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. We were not engaged to perform an audit of the Company's internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Tree.com, Inc. and subsidiaries at December 31, 2007 and 2006, and the consolidated results of their operations and their cash flows for each of the three years in the period ended December 31, 2007, in conformity with U.S. generally accepted accounting principles. Also, in our opinion, the related financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly in all material respects the information set forth therein.

/s/ Ernst & Young LLP

Los Angeles, California  
May 5, 2008

TREE.COM, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF OPERATIONS

	Years Ended December 31,		
	2007	2006	2005
	(In thousands)		
<b>Revenue</b>			
Lending services	\$ 294,626	\$ 419,657	\$ 363,800
Real estate services	51,752	56,821	57,555
<b>Total revenue</b>	<b>346,378</b>	<b>476,478</b>	<b>421,355</b>
<b>Cost of revenue</b>			
Lending services	47,264	47,412	38,904
Real estate services	25,850	25,805	27,438
<b>Total cost of revenue (exclusive of depreciation shown separately below)</b>	<b>73,114</b>	<b>73,217</b>	<b>66,342</b>
Gross margin	273,264	403,261	355,013
Selling and marketing expense	187,612	218,910	176,749
General and administrative expense	99,244	119,284	101,975
Product development	14,991	15,168	15,001
Proceeds from a litigation settlement	(15,000)	—	—
Amortization of intangibles	34,469	24,018	35,314
Restructuring expense	22,867	—	—
Depreciation	10,058	11,710	6,720
Goodwill impairment	459,463	—	—
Operating (loss) income	(540,440)	14,171	19,254
<b>Other income (expense):</b>			
Interest income	1,171	1,307	195
Interest expense	(986)	(1,556)	(2,195)
Other income (expense)	14	(207)	(35)
<b>Total other income (expense), net</b>	<b>199</b>	<b>(456)</b>	<b>(2,035)</b>
(Loss) earnings before income taxes and minority interest	(540,241)	13,715	17,219
Income tax provision	(10,161)	(5,022)	(11,420)
Minority interest in losses of consolidated subsidiaries	—	—	52
<b>Net (loss) income</b>	<b>\$ (550,402)</b>	<b>\$ 8,693</b>	<b>\$ 5,851</b>

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

TREE.COM, INC. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS

	December 31, 2007	December 31, 2006
(In thousands)		
<b>ASSETS</b>		
Cash and cash equivalents	\$ 45,940	\$ 99,498
Restricted cash and cash equivalents	14,953	15,467
Accounts receivable, net of allowance of \$322 and \$1,129, respectively	12,433	21,581
Loans held for sale	86,754	345,896
Deferred income taxes	6,420	12,406
Prepaid and other current assets	6,011	10,090
	172,511	504,938
Total current assets		
Property and equipment, net	21,466	30,677
Goodwill	140,892	582,295
Intangible assets, net	108,440	142,781
Other non-current assets	278	354
	443,587	1,261,045
<b>TOTAL ASSETS</b>	<b>\$ 443,587</b>	<b>\$ 1,261,045</b>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
<b>LIABILITIES:</b>		
Current maturities of long-term obligations and short-term borrowings	\$ 99,622	\$ 350,072
Accounts payable, trade	3,335	8,989
Deferred revenue	1,435	2,908
Income taxes payable	993	616
Accrued expenses and other current liabilities	83,613	62,890
	188,998	425,475
Total current liabilities		
Long-term obligations, net of current maturities	—	19,347
Income taxes payable	730	—
Other long-term liabilities	2,529	3,794
Deferred income taxes	36,706	38,976
	42,965	62,117
Commitments and contingencies		
<b>SHAREHOLDERS' EQUITY:</b>		
Invested capital	751,923	750,331
Payables to IAC and subsidiaries	20,067	29,126
Accumulated deficit	(557,366)	(6,004)
	214,624	773,453
Total shareholders' equity		
<b>TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY</b>	<b>\$ 443,587</b>	<b>\$ 1,261,045</b>

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

TREE.COM, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY

	Total	Invested Capital	Payables to IAC and Subsidiaries	Accumulated Deficit
(In thousands)				
<b>Balance as of December 31, 2004</b>	\$ 753,674	\$ 751,646	\$ 22,576	\$ (20,548)
Comprehensive income:				
Net income for the year ended December 31, 2005	5,851	—	—	5,851
Comprehensive income	5,851			
Net transfers from IAC (principally related to equity awards)	3,127	3,127	—	
Net change in payables to IAC and subsidiaries	3,834	—	3,834	—
<b>Balance as of December 31, 2005</b>	766,486	754,773	26,410	(14,697)
Comprehensive income:				
Net income for the year ended December 31, 2006	8,693	—	—	8,693
Comprehensive income	8,693			
Net transfers to IAC (principally tax adjustments related to equity awards)	(4,442)	(4,442)	—	—
Net change in payables to IAC and subsidiaries	2,716	—	2,716	—
<b>Balance as of December 31, 2006</b>	773,453	750,331	29,126	(6,004)
Comprehensive loss:				
Net loss for the year ended December 31, 2007	(550,402)	—	—	(550,402)
Comprehensive loss	(550,402)			
Cumulative effect of adoption of EITF 06-2	(960)	—	—	(960)
Net transfers from IAC (principally tax adjustments related to equity awards)	1,592	1,592	—	—
Net change in payables to IAC and subsidiaries	(9,059)	—	(9,059)	—
<b>Balance as of December 31, 2007</b>	\$ 214,624	\$ 751,923	\$ 20,067	\$ (557,366)

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

TREE.COM, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS

	Years Ended December 31,		
	2007	2006	2005
	(In thousands)		
<b>Cash flows from operating activities:</b>			
Net (loss) income	\$ (550,402)	\$ 8,693	\$ 5,851
Adjustments to reconcile net (loss) income to net cash provided by (used in) operating activities:			
Amortization of intangibles	34,469	24,018	35,314
Depreciation	10,058	11,710	6,720
Goodwill impairment	459,463	—	—
Non-cash compensation expense	2,925	2,177	7,385
Non-cash restructuring expense	8,403	—	—
Deferred income taxes	2,764	206	543
Excess tax benefits from stock-based awards	—	—	3,075
Gain on sales of loans held for sale	(147,546)	(221,400)	(179,026)
Provision for loans losses	19,321	6,637	4,649
Bad debt expense	1,925	1,768	560
Non-cash interest expense	903	1,345	1,824
Minority interest in losses of consolidated subsidiaries	—	—	(52)
Changes in current assets and liabilities:			
Accounts receivable	9,364	(1,254)	(372)
Origination of loans held for sale	(5,822,599)	(7,841,607)	(7,381,439)
Proceeds from sales of loans held for sale	6,223,363	8,089,128	7,394,209
Prepaid and other current assets	4,110	(4,761)	(3,337)
Accounts payable and other current liabilities	(20,612)	(3,594)	21,207
Income taxes payable	(702)	582	947
Deferred revenue	(1,785)	1,603	(142)
Other, net	(437)	(337)	268
<b>Net cash provided by (used in) operating activities</b>	<b>232,985</b>	<b>74,914</b>	<b>(81,816)</b>
<b>Cash flows from investing activities:</b>			
Acquisitions, net of cash acquired	(1,559)	(3,059)	(3,760)
Capital expenditures	(9,421)	(13,251)	(17,827)
Proceeds from sales of marketable securities	—	—	2,416
Other, net	33	(100)	806
<b>Net cash used in investing activities</b>	<b>(10,947)</b>	<b>(16,410)</b>	<b>(18,365)</b>
<b>Cash flows from financing activities:</b>			
Borrowing under lines of credit	5,651,803	7,700,842	7,217,327
Repayments of lines of credit	(5,910,849)	(7,724,663)	(7,054,488)
Principal payments on long-term obligations	(11,654)	(11,530)	(1,717)
Transfers (to) from IAC	(7,083)	(3,870)	3,090
Excess tax benefits from stock-based awards	1,673	1,214	—
Decrease (increase) in restricted cash	514	(7,908)	(1,181)
<b>Net cash (used in) provided by financing activities</b>	<b>(275,596)</b>	<b>(45,915)</b>	<b>163,031</b>
<b>Net (decrease) increase in cash and cash equivalents</b>	<b>(53,558)</b>	<b>12,589</b>	<b>62,850</b>
Cash and cash equivalents at beginning of period	99,498	86,909	24,059
<b>Cash and cash equivalents at end of period</b>	<b>\$ 45,940</b>	<b>\$ 99,498</b>	<b>\$ 86,909</b>

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

## NOTE 1—ORGANIZATION AND BASIS OF PRESENTATION

**Spin-Off**

On November 5, 2007, IAC/InterActiveCorp ("IAC") announced that its Board of Directors approved a plan to separate IAC into five publicly traded companies, identifying Tree.com, Inc. ("Tree.com") as one of those five companies. In these consolidated financial statements, we refer to the separation transaction herein as the "spin-off". In connection with the spin-off, Tree.com was incorporated as a Delaware corporation in April 2008. Tree.com currently does not have any material assets or liabilities, nor does it engage in any business or other activities and, other than in connection with the spin-off, will not acquire or incur any material assets or liabilities, nor will it engage in any business or other activities. Upon completion of the spin-off, Tree.com will consist of the businesses that formerly comprised IAC's Lending and Real Estate segments. We refer herein to these businesses as the "Tree.com Businesses," which include LendingTree.com, RealEstate.com, GetSmart.com, LendingTree Loans, iNest and Domania.

**Basis of Presentation**

The historical consolidated financial statements of Tree.com and its subsidiaries reflect the contribution or other transfer to Tree.com of all of the subsidiaries and assets and the assumption by Tree.com of all of the liabilities relating to the Tree.com Businesses in connection with the spin-off and the allocation to Tree.com of certain IAC corporate expenses relating to the Tree.com Businesses. Accordingly, the historical consolidated financial statements of Tree.com reflect the historical financial position, results of operations and cash flows of the Tree.com Businesses since their respective dates of acquisition by IAC, based on the historical consolidated financial statements and accounting records of IAC and using the historical results of operations and historical bases of the assets and liabilities of the Tree.com Businesses with the exception of accounting for income taxes. For purposes of these financial statements, income taxes have been computed for Tree.com on an as if stand-alone, separate tax return basis. Intercompany transactions and accounts have been eliminated.

In the opinion of Tree.com's management, the assumptions underlying the historical consolidated financial statements of Tree.com are reasonable. However, this financial information does not necessarily reflect what the historical financial position, results of operations and cash flows of Tree.com would have been had Tree.com been a stand-alone company during the periods presented.

**Company Overview*****Lending***

Lending consists of online networks (principally LendingTree.com and GetSmart.com) and call centers that connect consumers and financial providers in the lending industry. Tree.com also originates, processes, approves and funds various residential real estate loans through Home Loan Center ("HLC"), which does business as LendingTree Loans in certain jurisdictions. The HLC and LendingTree Loans brand names are collectively referred to in these consolidated financial statements as "LendingTree Loans." Additionally, Tree.com provides mortgage settlement services, including title search, appraisals, flood certification and closing transactions, under the name "LendingTree Settlement Services."

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

**NOTE 1—ORGANIZATION AND BASIS OF PRESENTATION (Continued)*****Real Estate***

Real Estate consists of a proprietary full service real estate brokerage that operates in fourteen U.S. markets, *www.RealEstate.com*, an online network that connects consumers with real estate brokerages around the country, iNest, an online network that matches buyers and builders of new homes, and Domania, an online lead provider for banks, mortgage lenders and real estate professionals.

**NOTE 2—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES****Revenue Recognition*****Lending***

Lending's network revenue principally represents match fees and closed-loan fees paid by lenders that received a transmitted loan request or closed a loan for a consumer that originated through one of Lending's websites or affiliates. Match fees are recognized at the time qualification forms are transmitted, while closed-loan fees are recognized at the time the lender reports the closed loan to Lending, which may be several months after the qualification form is transmitted.

LendingTree Loans' revenue is primarily derived from the origination and sale of mortgage loans. Mortgage loans are funded through lines of credit, primarily warehouse lines, and sold to investors typically within thirty days. The gain or loss on the sale of loans to investors is recognized at the date the loans are sold and is based on the difference between the sale proceeds received and the carrying value of the loans, which includes deferred loan origination fees less certain direct origination costs and other processing costs. LendingTree Loans sells its loans on a servicing released basis in which LendingTree Loans gives up the right to service the loan on an ongoing basis, thereby earning an additional premium upon sale. The recognition of gain or loss on the sale of loans is accounted for in accordance with Statement of Financial Accounting Standards ("SFAS") No. 140, "Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities" ("SFAS No. 140").

***Real Estate***

Real Estate earns revenue from subscription and cooperative brokerage fees paid by real estate professionals participating in its real estate networks and from commissions paid by consumers for closing a real estate transaction on their behalf. Subscription fees are recognized over the subscription period. Cooperative brokerage fees are recognized when the transmission of a consumer's information results in the purchase or sale of a home and the transaction is reported closed by the participating real estate professional. Commissions are recognized at the time the real estate transaction is closed.

**Cash and Cash Equivalents**

Cash and cash equivalents include cash and money market instruments.

**Restricted Cash**

Restricted cash at December 31, 2007 and 2006 primarily includes minimum required balances that LendingTree Loans maintains in connection with its various lines of credit, primarily warehouse lines.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 2—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

**Accounts Receivable**

Accounts receivable are stated at amounts due from customers, primarily lending and real estate service providers participating on our networks, net of an allowance for doubtful accounts.

Accounts receivable outstanding longer than the contractual payment terms are considered past due. Tree.com determines its allowance for doubtful accounts by considering a number of factors, including the length of time accounts receivable are past due, Tree.com's previous loss history, the specific customer's current ability to pay its obligation to Tree.com and the condition of the general economy and the customer's industry. Tree.com writes off accounts receivable when management deems them uncollectible.

**Loans Held for Sale**

LendingTree Loans originates residential loans with the intent to sell them in the secondary market. Loans held for sale consist primarily of residential first and second mortgage loans that are secured by residential real estate throughout the United States. Loans held for sale are carried at the lower of cost or market value in accordance with SFAS No. 65, "Accounting for Certain Mortgage Banking Activities." The lower of cost or market value is determined on an aggregate basis, except for loans that management has deemed to be impaired, in which case the determination is made on an individual basis. The cost basis of loans held for sale includes the capitalized cost associated with the interest rate lock commitments, deferred origination fees and deferred origination costs. The market value of loans held for sale is determined using current secondary market prices for loans with similar coupons, maturities and credit quality. The amount by which the cost of loans held for sale exceeds the market value of loans held for sale is accounted for as a valuation allowance. Loans held for sale are pledged as collateral under LendingTree Loans' various lines of credit, which are primarily warehouse lines. LendingTree Loans relies substantially on the secondary mortgage market as all of the loans that are funded are intended to be sold into this market.

Loan origination fees (income) and costs related to funded loans held for sale (including direct costs of origination as well as payroll and administration costs associated with the origination process) are deferred until the loan is sold. Upon sale of the loan, the origination fees and costs are recognized as a component of the gain on sale of the loan. Origination costs related to unsuccessful loan origination efforts are recorded as operating expenses in the period incurred.

Interest on mortgage loans held for sale is recorded in income as earned. Interest is only accrued if deemed collectible. Interest is generally deemed uncollectible when a loan is delinquent for three months or more or when a loan has a defect affecting its salability evidencing a lack of collectability of amounts when contractually due. Delinquency is calculated based on the contractual due date of the loan. The amount of loans on nonaccrual status at December 31, 2007 and 2006 was \$7.2 million and \$1.6 million, respectively.

LendingTree Loans sells loans it originates to investors on a servicing released basis, so that the economic risk of loss or default by the borrower is generally transferred to the investor. LendingTree Loans, however, is required by these investors to make certain representations relating to credit information, loan documentation and collateral. To the extent that LendingTree Loans does not comply with such representations, which may be evidenced by early payment defaults, LendingTree Loans may be required to repurchase loans or indemnify these investors for any loss from borrower defaults. As

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 2—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

such, LendingTree Loans records a liability for the estimated obligation related to this exposure based, in part, on historical and projected loss frequency and loss severity, the original principal amount of the loans previously sold, the year the loans were sold, and loan type. There are four loan types used in this analysis which are determined based on the extent of the documentation received (full or limited) and the lien position of the mortgage in the underlying property (first or second position). In connection with a majority of its loan sales agreements, LendingTree Loans is also responsible for a minimum number of payments to be made on each loan. In the case of early payment payoffs, which occurs when a borrower prepays a loan prior to the end of the prepayment penalty period, LendingTree Loans may be required to repay all or a portion of the premium initially paid by the investor. The estimated obligation associated with early loan payoffs is calculated based on historical loss experience by type of loan. As of December 31, 2007 and 2006, the loan loss liability was \$13.9 million and \$3.8 million, respectively. For the years ended December 31, 2007, 2006 and 2005, LendingTree Loans increased its liability for losses on previously sold loans by approximately \$15.5 million, \$6.0 million and \$4.7 million, respectively, as a reduction in revenue. In 2007, 2006 and 2005, \$5.4 million, \$5.3 million and \$2.7 million was paid or written off against the liability, respectively, thereby reducing the liability. Actual losses are charged to the loss liability when incurred and management evaluates the adequacy of the liability calculations quarterly. Because LendingTree Loans does not service the loans it sells, it does not maintain nor have access to the current balances and loan performance data with respect to the individual loans previously sold to investors. As such, LendingTree Loans is unable to determine its maximum loss exposure.

For the years ended 2007, 2006 and 2005 LendingTree Loans sold approximately 36,000 55,000 and 48,000 loans, respectively, with initial loan values of \$6.1 billion, \$7.9 billion and \$7.2 billion, respectively. From loans sold in those periods, LendingTree Loans has experienced repurchase and indemnification losses resulting from lack of compliance with certain representations relating to loans sold to investors which may be evidenced by early payment defaults on 57, 84 and 46 loans, respectively. The initial value of loans on which losses have been incurred was \$6.4 million, \$9.9 million and \$6.6 million, respectively. The loss amounts incurred on those loans were \$1.2 million, \$3.3 million and \$1.1 million, respectively, or less than 0.019%, 0.042% and 0.016%, respectively, of the initial loan value of the total loans sold for 2007, 2006 and 2005.

**Property and Equipment**

Property and equipment, including significant improvements, are recorded at cost. Repairs and maintenance and any gains or losses on dispositions are included in operations.

Depreciation is recorded on a straight-line basis to allocate the cost of depreciable assets to operations over their estimated service lives. Amortization of assets recorded under capital leases is included in depreciation expense.

Asset Category	Depreciation Period
Computer equipment and capitalized software	3 to 5 Years
Leasehold improvements	1 to 10 Years
Furniture and other equipment	7 Years

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 2—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

**Goodwill and Indefinite-Lived Intangible Assets**

In accordance with SFAS No. 142, "Goodwill and Other Intangible Assets" ("SFAS No. 142"), goodwill acquired in business combinations is assigned to the reporting units that are expected to benefit from the combination as of the acquisition date.

Goodwill impairment is determined using a two-step process. The first step of the process is to compare the fair value of a reporting unit with its carrying amount, including goodwill. In performing the first step, Tree.com determines the fair value of its reporting units by using a discounted cash flow ("DCF") analysis. Determining fair value using a DCF analysis requires the exercise of significant judgments, including judgments about appropriate discount rates, perpetual growth rates and the amount and timing of expected future cash flows. If the fair value of a reporting unit exceeds its carrying amount, goodwill of the reporting unit is not impaired and the second step of the impairment test is not required. If the carrying amount of a reporting unit exceeds its fair value, the second step of the goodwill impairment test is required to be performed to measure the amount of impairment, if any. The second step of the goodwill impairment test compares the implied fair value of the reporting unit's goodwill with the carrying amount of that goodwill. The implied fair value of goodwill is determined in the same manner as the amount of goodwill recognized in a business combination. If the carrying amount of the reporting unit's goodwill exceeds the implied fair value of that goodwill, an impairment loss is recognized in an amount equal to that excess.

The impairment test for indefinite-lived intangible assets involves a comparison of the estimated fair value of the intangible asset with its carrying value. If the carrying value of the indefinite-lived intangible asset exceeds its fair value, an impairment loss is recognized in an amount equal to that excess. The estimates of fair value of indefinite-lived intangible assets are determined using a DCF valuation analysis that employs a "relief from royalty" methodology in estimating the fair value of its trade names and trademarks. Significant judgments inherent in this analysis include the determination of royalty rates, discount rates and the terminal growth rates.

Goodwill and indefinite-lived intangible assets, primarily trade names and trademarks, are tested annually for impairment as of October 1 or earlier upon the occurrence of certain events or substantive changes in circumstances. Tree.com's 2007 annual impairment assessment identified significant impairments as described in Note 4. Tree.com's reporting units are currently operating in dynamic and challenged industry segments. To illustrate the magnitude of potential impairment charges relative to future changes in estimated fair value, had the estimated fair value of Tree.com's reporting units and their respective indefinite-lived intangible assets been hypothetically lower by 10% as of October 1, 2007 the aggregate book value of goodwill and indefinite-lived intangible assets would have exceeded fair value by approximately \$7.0 million at Lending and \$8.0 million at Real Estate. Had the estimated fair values of Tree.com's reporting units and their respective indefinite-lived intangible assets been hypothetically lower by 20% as of October 1, 2007, the book value of goodwill and indefinite-lived intangible assets would have exceeded fair value by approximately \$21.0 million at Lending and \$18.0 million at Real Estate.

**Long-Lived Assets and Intangible Assets with Definite Lives**

In accordance with SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets" ("SFAS No. 144"), long-lived assets, including property and equipment and intangible assets with definite lives, are tested for recoverability whenever events or changes in circumstances indicate

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 2—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

that their carrying amount may not be recoverable. The carrying amount of a long-lived asset is not recoverable if it exceeds the sum of the undiscounted cash flows expected to result from the use and eventual disposition of the asset. If the carrying amount is deemed to not be recoverable, an impairment loss is recorded as the amount by which the carrying amount of the long-lived asset exceeds its fair value. Amortization of definite lived intangible assets is recorded on a straight-line basis over their estimated lives.

**Derivative Instruments**

Tree.com is exposed to certain risks in connection with its mortgage banking operations. LendingTree Loans is exposed to interest rate risk for loans it originates until those loans are sold in the secondary market ("loans held for sale"). The fair value of loans held for sale is subject to change primarily due to changes in market interest rates. LendingTree Loans hedges the changes in fair value of certain loans held for sale primarily by entering into mortgage forward delivery contracts. Although LendingTree Loans continues to enter into derivatives for risk management purposes, effective April 1, 2007 it no longer designates these derivative instruments as hedges and thus the relationships no longer qualify for the hedge accounting provisions of SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities" ("SFAS No. 133"). See Note 10 for a description of Tree.com's derivative financial instruments.

**Advertising**

Advertising costs are expensed in the period incurred (when the advertisement first runs for production costs that are initially capitalized) and principally represent offline costs, including television and radio advertising, and online advertising costs, including fees paid to search engines and distribution partners. Advertising expense was \$172.6 million, \$204.4 million and \$161.6 million for the years ended December 31, 2007, 2006 and 2005, respectively. Prepaid advertising totaled \$0.6 million and \$1.1 million at December 31, 2007 and 2006, respectively, and is included in "Prepaid and other current assets" in the accompanying consolidated balance sheets.

**Income Taxes**

Tree.com accounts for income taxes under the liability method, and deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates in effect for the year in which those temporary differences are expected to be recovered or settled. A valuation allowance is provided on deferred tax assets if it is determined that it is more likely than not that the deferred tax asset will not be realized. Tree.com records interest on potential tax contingencies as a component of income tax expense and records interest net of any applicable related income tax benefit.

Effective January 1, 2007, Tree.com adopted the provisions of Financial Accounting Standards Board ("FASB") Interpretation No. 48, "Accounting for Uncertainty in Income Taxes—an interpretation of FASB Statement No. 109" ("FIN 48"). As a result of the adoption of FIN 48, Tree.com recognizes liabilities for uncertain tax positions based on the two-step process prescribed by the interpretation. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates it is more likely than not that the position will be sustained on audit, including

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 2—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

resolution of related appeals or litigation processes, if any. The second step is to measure the tax benefit as the largest amount which is more than 50% likely of being realized upon ultimate settlement.

**Stock-Based Compensation**

Effective January 1, 2006, Tree.com adopted the provisions of SFAS No. 123 (revised 2004), "Share-Based Payment" ("SFAS 123R"), using the modified prospective transition method and therefore has not restated results for prior periods. See Note 3 for a further description of the impact of the adoption of SFAS 123R and Staff Accounting Bulletin No. 107 ("SAB 107").

**Minority Interest**

Minority interest in 2005 represents minority ownership in LendingTree Settlement Services. Tree.com obtained 100% ownership in September 2005.

**Accounting Estimates**

Tree.com's management is required to make certain estimates and assumptions during the preparation of the consolidated financial statements in accordance with U.S. generally accepted accounting principles. These estimates and assumptions impact the reported amount of assets and liabilities and disclosures of contingent assets and liabilities as of the date of the consolidated financial statements. They also impact the reported amount of net earnings during any period. Actual results could differ from those estimates.

Significant estimates underlying the accompanying consolidated financial statements include: reserves for losses associated with loans held for sale and loans that have been previously sold; recoverability of long-lived assets; recovery of goodwill and intangible assets; income taxes payable and deferred income taxes, including related valuation allowances; various other allowances, reserves and accruals; and assumptions related to the determination of stock-based compensation.

**Certain Risks and Concentrations**

Tree.com's business is subject to certain risks and concentrations including dependence on third party technology providers, exposure to risks associated with online commerce security and credit card fraud.

Financial instruments, which potentially subject Tree.com to concentration of credit risk, consist primarily of cash and cash equivalents. Cash and cash equivalents are maintained with quality financial institutions of high credit and are in excess of Federal Deposit Insurance Corporation ("FDIC") insurance limits.

Due to the nature of the mortgage lending industry, interest rate increases may significantly impact revenue from services related to originating and processing mortgages and subsequent sales of loans to investors, which are the primary source of income for LendingTree Loans. LendingTree Loans originates mortgage loans on property located throughout the United States, with no one location representing more than 10% of Tree.com's consolidated revenue for any periods presented. Revenue from loans originated for property located in California and Florida in the aggregate totaled approximately 10%, 14% and 14% of Tree.com's revenue in 2007, 2006 and 2005, respectively.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

**NOTE 2—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

LendingTree Loan's two largest investors (purchasers of the loans originated) represented approximately 28% and 13% of Tree.com's revenue for 2007, 30% and 15% of Tree.com's revenue for 2006, and 35% and 8% of Tree.com's revenue for 2005. LendingTree Loans monitors its relationships with investors and, from time to time, makes adjustments in the amount it sells to any one investor based upon a number of factors, including but not limited to, price, loan review time and funding turnaround, underwriting guidelines and the overall efficiency of its relationship with the investor.

LendingTree Loans funds loans through various lines of credit, primarily warehouse lines. As of December 31, 2007, 73% of the total balance due on the lines of credit was payable to one lender. The decision regarding how to allocate this balance amongst lenders is based on several factors, including the interest rate and commitment fee.

Due to the nature of the mortgage lending industry, interest rate increases may negatively impact future revenue from our lending networks as well as revenue from originating and selling loans.

Further, lenders participating on our lending networks can offer their products directly to consumers through brokers, mass marketing campaigns, or through other traditional methods of credit distribution. These lenders can also offer their products online, either directly to prospective borrowers, through one or more of our online competitors, or both. If a significant number of potential consumers are able to obtain loans from our participating lenders without utilizing our service, our ability to generate revenue may be limited. Because we do not have exclusive relationships with the lenders whose loan offerings are offered on our online marketplace, consumers may obtain offers and loans from these lenders without using our service.

**Recent Accounting Pronouncements**

On June 15, 2006, the Emerging Issues Task Force ratified Issue 06-2, "Accounting for Sabbatical Leave and Other Similar Benefits Pursuant to FASB Statement No. 43" ("EITF 06-2"), which requires entities to recognize the expense of employee sabbatical leave in the periods the sabbatical leave vests or accumulates. EITF 06-2 is effective for fiscal years beginning after December 15, 2006. The cumulative effect of applying EITF 06-2 was recorded as an adjustment to the opening balance of accumulated deficit as of January 1, 2007.

In February 2007, the FASB issued SFAS No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities" ("SFAS No. 159"). SFAS No. 159 permits entities to choose to measure many financial instruments and certain other assets and liabilities at fair value with the objective of reducing both the complexity in the accounting for financial instruments and the volatility in earnings caused by measuring related assets and liabilities differently. SFAS No. 159 is effective for fiscal years beginning after November 15, 2007. Tree.com adopted SFAS No. 159 effective January 1, 2008 and elected the fair value option on loans funded after December 31, 2007. Therefore there was no cumulative effect related to the adoption of SFAS No. 159.

In September 2006, the FASB issued SFAS No. 157, "Fair Value Measurements" (SFAS No. 157"), which provides enhanced guidance for using fair value to measure assets and liabilities. SFAS No. 157 is effective for fiscal years beginning after November 15, 2007, and interim periods within those fiscal years. SFAS No. 157 defines fair value, establishes a framework for measuring fair value and expands disclosures about fair value measurements and the effect of the measurements on earnings or changes in net assets. Among other things, SFAS No. 157 clarifies the principle that fair value should be based

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 2—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

on the assumptions that market participants would use when pricing the asset or liability and establishes a fair value hierarchy that prioritizes the information used to develop those assumptions. The most significant financial impact of adopting the provisions of SFAS No. 157 is related to the valuing of interest rate lock commitments (related to loans intended to be held for sale). Under SFAS No. 157, the fair value of a closed loan includes the embedded cash flows that are ultimately realized as servicing value or through the sale of a loan on a servicing released basis. The valuation of loan commitments includes assumptions related to the likelihood that a commitment will ultimately result in a closed loan ("expected close rates"). These expected close rates are based on Tree.com's historical data, which is a significant unobservable assumption. Prior accounting requirements precluded the recognition of any day one gains and losses if fair value was not based on observable market data. Rather, these gains and losses were recognized when the interest rate lock commitment expired or when the underlying loan was ultimately sold. The change in valuation methodology under SFAS No. 157 accelerates the recognition of these day one gains and losses. The cumulative effect of adopting the provisions of SFAS No. 157 is required to be reported as an adjustment to beginning retained earnings in the year of adoption. Accordingly, upon adoption of SFAS No. 157 on January 1, 2008, Tree.com recorded a \$3.1 million reduction to accumulated deficit.

In November 2007, the SEC issued Staff Accounting Bulletin No. 109, "Written Loan Commitments Recorded at Fair Value Through Earnings" ("SAB 109"). SAB 109 supersedes Staff Accounting Bulletin No. 105, "Application of Accounting Principles to Loan Commitments" ("SAB 105"). It clarifies that the expected net future cash flows related to the associated servicing of a loan should be included in the measurement of all written loan commitments that are accounted for at fair value through earnings. However, it retains the guidance in SAB 105 that internally-developed intangible assets should not be recorded as part of the fair value of a derivative loan commitment. The guidance is effective on a prospective basis to derivative loan commitments issued or modified in fiscal quarters beginning after December 15, 2007.

The adoption of SFAS No. 157, SFAS No. 159, and SAB 109 generally results in higher fair values of loans held for sale being recorded at loan origination. Prior to adoption certain aspects of the loan value associated with the cash flows related to the servicing of a loan, origination fees and day one gains on derivative transactions would be deferred until the sale of the loan. However, as loans are typically sold within thirty days of origination, Tree.com has determined that adoption of SFAS No. 157, SFAS No. 159 and SAB 109 will not have a material impact on the its consolidated financial position, results of operations or cash flows.

In December 2007, the FASB issued SFAS No. 141 (revised 2007), "Business Combinations" ("SFAS No. 141R"), which replaces FASB Statement No. 141. SFAS No. 141R establishes principles and requirements for how an acquirer recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed, any noncontrolling interest in the acquiree and the goodwill acquired. The Statement also establishes disclosure requirements that will enable users to evaluate the nature and financial effects of the business combination. SFAS No. 141R applies prospectively to business combinations in fiscal years beginning after December 15, 2008. Early adoption is not permitted. Tree.com is currently assessing the impact of the adoption of SFAS No. 141R on its consolidated financial position, results of operations and cash flows.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 3—SFAS 123R AND STOCK-BASED COMPENSATION

The equity awards described below principally relate to awards to Tree.com employees that were granted under various IAC stock and annual incentive plans.

Effective January 1, 2006, Tree.com adopted SFAS 123R using the modified prospective transition method and has applied the classification provisions of SAB 107 regarding the SEC's interpretation of SFAS 123R and the valuation of share-based payments for public companies in its adoption of SFAS 123R.

The adoption of SFAS 123R did not impact the amount of stock-based compensation expense recorded in the accompanying consolidated statements of operations as Tree.com had previously adopted the expense recognition provisions of SFAS No. 123, "Accounting for Stock-Based Compensation" ("SFAS No. 123").

Prior to the adoption of SFAS 123R, the entire tax benefit from stock-based compensation was reported as a component of operating cash flows. Upon the adoption of SFAS 123R, tax benefits resulting from tax deductions in excess of the stock-based compensation expense recognized in the consolidated statement of operations are reported as a component of financing cash flows. For the years ended December 31, 2007 and 2006, excess tax benefits from stock-based compensation of \$1.7 million and \$1.2 million, respectively, are included as a component of financing cash flows. For the year ended December 31, 2005, excess tax benefits from stock-based compensation of \$3.1 million is included as a component of operating cash flows.

Non-cash stock-based compensation expense related to equity awards is included in the following line items in the accompanying consolidated statements of operations for the years ended December 31, 2007, 2006 and 2005 (in thousands):

	Years Ended December 31,		
	2007	2006	2005
Cost of revenue	\$ 248	\$ 263	\$ 317
Selling and marketing expense	272	289	333
General and administrative expense	2,403	1,603	6,620
Product development	2	22	115
Non-cash stock-based compensation expense before income taxes	2,925	2,177	7,385
Income tax benefit	(1,228)	(1,169)	(1,219)
Non-cash stock-based compensation expense after income taxes	\$ 1,697	\$ 1,008	\$ 6,166

The form of awards granted to Tree.com employees principally have been restricted stock units ("RSUs") and performance stock units ("PSUs"). RSUs and PSUs are awards in the form of phantom shares or units, denominated in a hypothetical equivalent number of shares of IAC common stock and with the value of each award equal to the fair value of IAC common stock at the date of grant. Each RSU, PSU and restricted stock grant is subject to service-based vesting, where a specific period of continued employment must pass before an award vests, and certain grants also include performance-based vesting, where certain performance targets set at the time of grant must be achieved before an award vests. Tree.com recognizes expense for all RSUs, PSUs and restricted stock for which vesting is considered probable. For RSU and restricted stock grants the accounting charge is measured at the grant date as the fair value of IAC common stock and expensed ratably as non-cash compensation over

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

**NOTE 3—SFAS 123R AND STOCK-BASED COMPENSATION (Continued)**

the vesting term. For PSU grants the expense is measured at the grant date as the fair value of IAC common stock and expensed as non-cash compensation when the performance targets are considered probable of being achieved.

The amount of stock-based compensation expense recognized in the consolidated statement of operations is reduced by estimated forfeitures, as the amount recorded is based on awards ultimately expected to vest. The forfeiture rate is estimated at the grant date based on historical experience and revised, if necessary, in subsequent periods if the actual forfeiture rate differs from the estimated rate.

As of December 31, 2007, there was approximately \$10.2 million of unrecognized compensation cost, net of estimated forfeitures, related to all equity-based awards. This cost is expected to be recognized over a weighted-average period of approximately 2.8 years.

In connection with the acquisition of LendingTree by IAC in 2003 certain members of LendingTree's management were granted restricted common equity in LendingTree. These awards were granted on August 8, 2003 and were initially measured at fair value, which is being amortized to expense over the vesting period. These awards vest ratably over four and a half years, or earlier based upon the occurrence of certain prescribed events. The awards vest in non-voting restricted common shares of LendingTree.

These shares are subject to a put right by the holders, which is not exercisable until the first quarter of 2009 and annually thereafter, and a call right by IAC, which is not exercisable until the first quarter of 2012 and annually thereafter. The value of these shares upon exercise of the put or call is equal to their fair market value, determined by negotiation or arbitration, reduced by the accreted value of the preferred interest that was taken by IAC upon the purchase of LendingTree. The initial value of the preferred interest was equal to the acquisition price of LendingTree. The preferred interest accretes value at a 10% annual rate. Upon exercise of the put or call the consideration is payable in IAC shares or cash or a combination thereof at IAC's option. As of December 31, 2007, these awards are significantly out of the money and are not expected to result in any value. Prior to the separation, this put and call arrangement will be modified so that the consideration payable in IAC's shares will be replaced with Tree.com shares.

The unrecognized compensation cost related to these equity awards is \$0.2 million at December 31, 2007.

**NOTE 4—GOODWILL AND INTANGIBLE ASSETS**

In connection with its annual impairment assessment in 2007, which was prepared in connection with the preparation of its annual financial statements, Tree.com identified and recorded impairment charges related to the goodwill and intangible assets of the Lending segment of \$459.5 million and \$16.2 million, respectively. The intangible asset impairment charges are included in amortization of intangibles in the accompanying consolidated statement of operations. The write-downs were determined by comparing the fair values of Lending reporting unit's goodwill and intangible assets with the carrying amounts. The fair values were determined using a discontinued cash flow approach.

The impairments associated with the Lending segment resulted from Tree.com's reassessment of the likely future profitability of Lending in light of the persistent adverse mortgage market conditions and the operational strategies Tree.com has undertaken in response to these market realities. These adverse conditions include, among others, constrained liquidity, lender focus on low margin conforming

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 4—GOODWILL AND INTANGIBLE ASSETS (Continued)

loans, uncertainty as to the eventuality and timing of the return of higher margin mortgage products, the decline in real estate values and a higher rate of delinquency for existing mortgages. Tree.com has significantly reduced its mortgage origination operations in response to these conditions which will reduce or slow its ability to react to possible improvements in the market. The impairments at the Lending segment occurred during the fourth quarter of 2007 as Tree.com completed an updated assessment of mortgage market conditions and the development and implementation of Lending's responsive operational strategies, and quantified these considerations in Lending's future forecasted results.

The balance of goodwill and intangible assets, net is as follows (in thousands):

	December 31,	
	2007	2006
Goodwill	\$ 140,892	\$ 582,295
Intangible assets with indefinite lives	88,607	104,826
Intangible assets with definite lives, net	19,833	37,955
Total goodwill and intangible assets, net	\$ 249,332	\$ 725,076

Intangible assets with indefinite lives relate principally to trade names and trademarks acquired in various acquisitions. At December 31, 2007, intangible assets with definite lives relate to the following (in thousands):

	Cost	Accumulated Amortization	Net	Weighted-Average Amortization Life (Years)
Purchase agreements	\$ 76,117	\$ (59,212)	\$ 16,905	5.7
Technology	29,100	(28,663)	437	3.0
Customer lists	6,607	(6,607)	—	2.8
Other	8,928	(6,437)	2,491	4.9
Total	\$ 120,752	\$ (100,919)	\$ 19,833	

At December 31, 2006, intangible assets with definite lives relate to the following (in thousands):

	Cost	Accumulated Amortization	Net	Weighted-Average Amortization Life (Years)
Purchase agreements	\$ 79,417	\$ (46,771)	\$ 32,646	5.7
Technology	29,100	(28,138)	962	3.0
Customer lists	6,607	(6,607)	—	2.8
Other	8,827	(4,480)	4,347	4.9
Total	\$ 123,951	\$ (85,996)	\$ 37,955	

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 4—GOODWILL AND INTANGIBLE ASSETS (Continued)

Amortization of intangible assets with definite lives is computed on a straight-line basis and, based on December 31, 2007 balances, such amortization for the next five years is estimated to be as follows (in thousands):

Years Ending December 31,	
2008	\$ 10,883
2009	4,138
2010	2,768
2011	1,218
2012	826
	\$ 19,833

The following table presents the balance of goodwill by segment, including the changes in carrying amount of goodwill, for the year ended December 31, 2007 (in thousands):

	Balance as of January 1, 2007	Additions	(Deductions)	Impairment	Balance as of December 31, 2007
Lending	\$ 513,405	\$ 18,914	\$ (2,090)	\$ (459,463)	\$ 70,766
Real Estate	68,890	1,367	(131)	—	70,126
Total	\$ 582,295	\$ 20,281	\$ (2,221)	\$ (459,463)	\$ 140,892

Additions principally relate to estimated contingent consideration payable to former shareholders of HLC under the terms of the purchase agreement. Deductions principally relate to the income tax benefit realized pursuant to the exercise of stock options assumed in business acquisitions that were vested at the transaction date and are treated as a reduction in goodwill when the income tax deductions are realized, and adjustments to the carrying value of goodwill based upon the finalization of the valuation of goodwill and intangible assets and their related deferred tax impacts.

The following table presents the balance of goodwill by segment, including the changes in carrying amount of goodwill, for the year ended December 31, 2006 (in thousands):

	Balance as of January 1, 2006	Additions	(Deductions)	Balance as of December 31, 2006
Lending	\$ 515,346	\$ 1,329	\$ (3,270)	\$ 513,405
Real Estate	65,870	3,412	(392)	68,890
Total	\$ 581,216	\$ 4,741	\$ (3,662)	\$ 582,295

Additions principally relate to acquisitions. Deductions principally relate to adjustments to the carrying value of goodwill based upon the finalization of the valuation of intangible assets and their related deferred tax impacts and the income tax benefit realized pursuant to the exercise of stock options assumed in business acquisitions that were vested at the transaction date and are treated as a reduction in goodwill when the income tax deductions are realized.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 5—PROPERTY AND EQUIPMENT

The balance of property and equipment, net is as follows (in thousands):

	December 31,	
	2007	2006
Computer equipment and capitalized software	\$ 35,183	\$ 36,175
Leasehold improvements	3,076	6,095
Furniture and other equipment	3,737	5,297
Projects in progress	5,002	7,024
	46,998	54,591
Less: accumulated depreciation and amortization	(25,532)	(23,914)
Total property and equipment, net	\$ 21,466	\$ 30,677

## NOTE 6—ACCRUED EXPENSES AND OTHER CURRENT LIABILITIES

Accrued expenses and other current liabilities consists of the following (in thousands):

	December 31,	
	2007	2006
Contingent consideration payable related to HLC acquisition	\$ 18,914	\$ —
Accrued loan loss liability related to loans previously sold	13,886	3,820
Litigation accruals	15,285	12,456
Accrued advertising expense	11,492	11,125
Accrued compensation and benefits	8,407	18,683
Accrued restructuring costs	5,560	—
Derivatives related to loans held for sale and interest rate lock commitments	1,185	2,470
Other accrued expenses	8,884	14,336
Total accrued expenses and other current liabilities	\$ 83,613	\$ 62,890

## NOTE 7—INCOME TAXES

Tree.com is a member of IAC's consolidated federal and state tax returns. In all periods presented, current and deferred tax expense has been computed for Tree.com on a separate return basis. Tree.com's payments to IAC for its share of IAC's consolidated federal and state tax return liabilities have been reflected within cash flows from operating activities in the accompanying consolidated statements of cash flows.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 7—INCOME TAXES (Continued)

The components of the provision for income taxes attributable to continuing operations are as follows (in thousands):

	Years Ended December 31,		
	2007	2006	2005
<b>Current income tax provision:</b>			
Federal	\$ 5,533	\$ 2,113	\$ 7,497
State	1,864	2,703	3,380
Current income tax provision	7,397	4,816	10,877
<b>Deferred income tax provision (benefit):</b>			
Federal	6,327	1,644	(4,139)
State	(3,563)	(1,438)	4,682
Deferred income tax provision	2,764	206	543
<b>Income tax provision</b>	<b>\$ 10,161</b>	<b>\$ 5,022</b>	<b>\$ 11,420</b>

Current income taxes payable has been reduced by \$1.7 million, \$1.2 million and \$3.1 million for the years ended December 31, 2007, 2006 and 2005, respectively, for tax deductions attributable to stock-based compensation. The related income tax benefits of this stock-based compensation were recorded as amounts charged or credited to invested capital or a reduction in goodwill.

The tax effects of cumulative temporary differences that give rise to significant portions of the deferred tax assets and deferred tax liabilities at December 31, 2007 and 2006 are presented below (in thousands). The valuation allowance is related to items for which it is more likely than not that the tax benefit will not be realized.

	December 31,	
	2007	2006
<b>Deferred tax assets:</b>		
Provision for accrued expenses	\$ 19,647	\$ 12,365
Net operating loss carryforwards	32,041	13,770
Goodwill	15,290	—
Other	7,303	4,974
Total deferred tax assets	74,281	31,109
Less valuation allowance	(68,830)	(5,835)
Net deferred tax assets	5,451	25,274
<b>Deferred tax liabilities:</b>		
Intangible and other assets	(34,581)	(48,689)
Other	(1,156)	(3,155)
Total deferred tax liabilities	(35,737)	(51,844)
<b>Net deferred tax liability</b>	<b>\$ (30,286)</b>	<b>\$ (26,570)</b>

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 7—INCOME TAXES (Continued)

At December 31, 2007, Tree.com had consolidated federal and state net operating losses ("NOLs") of approximately \$58.9 million and \$16.6 million, respectively. These NOL carryforwards have been fully utilized in the IAC consolidated federal and state return filings and will not be available to Tree.com following the spin-off. In addition, Tree.com had separate company state NOLs of approximately \$159.0 million that will expire at various times between 2008 and 2027.

At December 31, 2007, Tree.com had tax credit carryforwards of approximately \$1.9 million. This entire amount is related to federal credits for increasing research activities. These credits have been fully utilized in the IAC consolidated federal tax return and will not be available to Tree.com following the spin-off.

During 2007, Tree.com's valuation allowance increased by approximately \$63.0 million. This increase related to NOLs and other deferred tax assets including accrued expenses and goodwill. At December 31, 2007, Tree.com had a valuation allowance of approximately \$68.8 million related to the portion of tax operating loss carryforwards and other deferred tax assets for which it is more likely than not that the tax benefit will not be realized.

A reconciliation of total income tax provision to the amounts computed by applying the statutory federal income tax rate to earnings from continuing operations before income taxes and minority interest is shown as follows (in thousands):

	Years Ended December 31,		
	2007	2006	2005
Income tax (benefit) provision at the federal statutory rate of 35%	\$ (189,084)	\$ 4,800	\$ 6,027
State income taxes, net of effect of federal tax benefit	(1,099)	839	(241)
Change in state effective tax rate	(4)	(17)	2,940
Non-deductible non-cash compensation expense	(125)	(332)	1,444
Impairment of non-deductible goodwill and intangible assets	145,665	—	—
Change in valuation allowance	54,960	—	2,542
Other, net	(152)	(268)	(1,292)
Income tax provision	\$ 10,161	\$ 5,022	\$ 11,420

Tree.com adopted the provisions of FIN 48 effective January 1, 2007. FIN 48 clarifies the accounting for income taxes by prescribing the minimum recognition threshold a tax position is required to meet before being recognized in the financial statements. FIN 48 provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosure and transition. The adoption had no impact on Tree.com's accumulated deficit. A reconciliation of the

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 7—INCOME TAXES (Continued)

beginning and ending amount of unrecognized tax benefits, excluding interest, is as follows (in thousands):

Balance at January 1, 2007	\$	541
Additions based on tax positions related to the current year		1,645
Additions for tax positions of prior years		2,203
Reductions for tax positions of prior years		—
Settlements		—
		<hr/>
Balance at December 31, 2007	\$	4,389
		<hr/>

As of January 1, 2007 and December 31, 2007, the unrecognized tax benefits, including interest, were \$0.5 million and \$5.8 million, respectively. Included in unrecognized tax benefits is approximately \$3.7 million for tax positions included in IAC's consolidated tax return filings. Included within "Payables to IAC and subsidiaries" in the accompanying consolidated balance sheet at December 31, 2007 is approximately \$5.0 million of unrecognized tax benefits and related interest that will remain a liability of IAC after the spin-off. Also included in unrecognized tax benefits at December 31, 2007 is approximately \$2.6 million for tax positions which the ultimate deductibility is highly certain but for which there is uncertainty about the timing of such deductibility.

Tree.com recognizes interest and, if applicable, penalties related to unrecognized tax benefits in income tax expense. Included in income tax expense from continuing operations for the year ended December 31, 2007 is \$0.9 million, net of related deferred taxes of \$0.5 million, for interest on unrecognized tax benefits. At December 31, 2007, Tree.com has accrued \$1.4 million for the payment of interest. There were no material accruals for interest as of January 1, 2007. There are no material accruals for penalties.

By virtue of previously filed separate company and consolidated tax returns with IAC, Tree.com is routinely under audit by federal, state and local authorities in the area of income tax. These audits include questioning the timing and the amount of deductions and the allocation of income among various tax jurisdictions. Income taxes payable include amounts considered sufficient to pay assessments that may result from examination of prior year returns; however, the amount paid upon resolution of issues raised may differ from the amount provided. Differences between the reserves for tax contingencies and the amounts owed by Tree.com are recorded in the period they become known.

The Internal Revenue Service ("IRS") is currently examining the IAC consolidated tax returns for the years ended December 31, 2001 through 2003, which includes the operations of LendingTree from August 8, 2003, its date of acquisition by IAC. The statute of limitations for these years has been extended to December 31, 2008. Various IAC consolidated tax returns filed with state and local jurisdictions are currently under examination, the most significant of which are Florida, New York state and New York City, for various tax years after December 31, 2001. These examinations are expected to be completed by late 2008.

Tree.com believes that it is reasonably possible that its unrecognized tax benefits could decrease by approximately \$2.6 million within twelve months of the current reporting date due to the reversal of deductible temporary differences which will result in a corresponding increase in net deferred tax liabilities. An estimate of other changes in unrecognized tax benefits cannot be made, but are not expected to be significant.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

NOTE 8—SEGMENT INFORMATION

The overall concept that Tree.com employs in determining its operating segments and related financial information is to present them in a manner consistent with how the chief operating decision maker and executive management view the businesses, how the businesses are organized as to segment management, and the focus of the businesses with regards to the types of products or services offered or the target market.

Tree.com's primary metric is Operating Income Before Amortization, which is defined as operating income excluding, if applicable: (1) non-cash compensation expense, (2) amortization of intangibles and goodwill impairment, (3) pro forma adjustments for significant acquisitions, and (4) one-time items. Tree.com believes this measure is useful to investors because it represents the consolidated operating results from Tree.com's segments, taking into account depreciation, which it believes is an ongoing cost of doing business, but excluding the effects of any other non-cash expenses. Operating Income Before Amortization has certain limitations in that it does not take into account the impact to Tree.com's statement of operations of certain expenses, including non-cash compensation and acquisition-related accounting.

The following tables reconcile Operating Income Before Amortization to operating income (loss) for Tree.com's operating segments and to net (loss) income in total (in thousands):

	Year Ended December 31, 2007				
	Operating Income Before Amortization	Non-Cash Compensation Expense	Amortization of Intangibles	Goodwill Impairment	Operating Loss
Lending	\$ (23,524)	\$ (1,914)	\$ (27,683)	\$ (459,463)	\$ (512,584)
Real Estate	(20,059)	(1,011)	(6,786)	—	(27,856)
<b>Total</b>	<b>\$ (43,583)</b>	<b>\$ (2,925)</b>	<b>\$ (34,469)</b>	<b>\$ (459,463)</b>	<b>(540,440)</b>
Other income, net					199
Loss before income taxes					(540,241)
Income tax provision					(10,161)
<b>Net loss</b>					<b>\$ (550,402)</b>

	Year Ended December 31, 2006				
	Operating Income Before Amortization	Non-Cash Compensation Expense	Amortization of Intangibles		Operating Income (Loss)
Lending	\$ 61,873	\$ (1,370)	\$ (16,412)	\$	44,091
Real Estate	(21,507)	(807)	(7,606)		(29,920)
<b>Total</b>	<b>\$ 40,366</b>	<b>\$ (2,177)</b>	<b>\$ (24,018)</b>		<b>14,171</b>
Other expense, net					(456)
Earnings before income taxes					13,715
Income tax provision					(5,022)
<b>Net income</b>					<b>\$ 8,693</b>

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

NOTE 8—SEGMENT INFORMATION (Continued)

	Year Ended December 31, 2005			
	Operating Income Before Amortization	Non-Cash Compensation Expense	Amortization of Intangibles	Operating Income (Loss)
Lending	\$ 78,883	\$ (4,829)	\$ (23,449)	\$ 50,605
Real Estate	(16,930)	(2,556)	(11,865)	(31,351)
<b>Total</b>	<b>\$ 61,953</b>	<b>\$ (7,385)</b>	<b>\$ (35,314)</b>	<b>19,254</b>
Other expense, net				(2,035)
Earnings before income taxes and minority interest				17,219
Income tax provision				(11,420)
Minority interest in losses of consolidated subsidiaries				52
Net income				<b>\$ 5,851</b>

	Year Ended December 31,		
	2007	2006	2005
	(In thousands)		
<b>Revenue:</b>			
Origination and sale of loans	\$ 130,151	\$ 221,400	\$ 179,026
Match fees	80,792	83,930	68,981
Closed loan fees	65,227	85,022	90,665
Other	18,456	29,305	25,128
Lending	294,626	419,657	363,800
Real Estate	51,752	56,821	57,555
<b>Total</b>	<b>\$ 346,378</b>	<b>\$ 476,478</b>	<b>\$ 421,355</b>

	December 31,	
	2007	2006
	(In thousands)	
<b>Assets:</b>		
Lending(a)	\$ 345,810	\$ 1,127,397
Real Estate(a)	97,777	133,648
<b>Total</b>	<b>\$ 443,587</b>	<b>\$ 1,261,045</b>

	Years Ended December 31,		
	2007	2006	2005
	(In thousands)		
<b>Depreciation, amortization of intangibles and goodwill impairment:</b>			
Lending(a)	\$ 496,052	\$ 25,721	\$ 28,989
Real Estate(a)	7,938	10,007	13,045
<b>Total</b>	<b>\$ 503,990</b>	<b>\$ 35,728</b>	<b>\$ 42,034</b>

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 8—SEGMENT INFORMATION (Continued)

	Years Ended December 31,		
	2007	2006	2005
	(In thousands)		
<b>Capital expenditures:</b>			
Lending and Real Estate(b)	\$ 9,421	\$ 13,251	\$ 17,827
<b>Total</b>	<b>\$ 9,421</b>	<b>\$ 13,251</b>	<b>\$ 17,827</b>

- (a) Assets related to the Real Estate segment only include goodwill and intangible assets, net as it is impracticable to allocate the remaining jointly used assets between the Lending and Real Estate segments. Accordingly, assets related to the Lending segment include goodwill and intangible assets, net and the remaining jointly used assets comprising both the Lending and Real Estate segments. However, depreciation expense, which Tree.com believes is an ongoing cost of doing business and is included in the calculation of both operating income (loss) and Operating Income Before Amortization, is allocated between the Lending and Real Estate segments.
- (b) All capital expenditures related to the Lending and Real Estate segments are included in one segment as it is impracticable to allocate capital expenditures between the Lending and Real Estate segments.

Tree.com maintains operations solely in the United States.

## NOTE 9—SHORT-TERM BORROWINGS AND LONG-TERM OBLIGATIONS

	December 31,	
	2007	2006
	(In thousands)	
Lines of credit (primarily warehouse lines)	\$ 79,426	\$ 338,472
Installment Note Payable due January 31, 2008	20,000	30,000
Other long-term obligations maturing through 2008	272	1,923
Total gross obligations	99,698	370,395
Total unamortized discount	(76)	(976)
Total long-term obligations and short-term borrowings	99,622	369,419
Less current maturities of long-term obligations and short-term borrowings	(99,622)	(350,072)
Long-term obligations, net of current maturities	\$ —	\$ 19,347

At December 31, 2007 and 2006, current maturities of long-term obligations and short-term borrowings consist primarily of the lines of credit and the installment note payable.

LendingTree Loans has various lines of credit, primarily warehouse lines, that it uses to fund the origination of consumer residential mortgage loans. As of December 31, 2007, LendingTree Loans had committed lines of credit totaling \$550 million, of which \$500 million expired on January 31, 2008 and \$50 million expires on October 31, 2008, and an uncommitted line of credit of \$150 million. As of December 31, 2006, LendingTree Loans had committed lines of credit in the aggregate amount of \$750 million, which had been scheduled to expire from August 31, 2007 to October 31, 2007, and uncommitted lines of credit aggregating \$250 million. Total borrowings under these lines of credit are secured by outstanding mortgage loans held for sale. The interest rate under these lines of credit was 30-day LIBOR plus 75 to 100 basis points, but may have been higher under certain circumstances. Under the terms of the committed lines of credit, LendingTree Loans is required to maintain various financial and other covenants. These financial covenants include maintaining (i) minimum levels of

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

**NOTE 9—SHORT-TERM BORROWINGS AND LONG-TERM OBLIGATIONS (Continued)**

tangible net worth, cash on hand with a certain lender and liquid assets, (ii) a maximum ratio of total liabilities to net worth and (iii) positive pre-tax net income on a quarterly basis. During the fourth quarter of 2007, LendingTree Loans was not in compliance with the quarterly positive pre-tax net income covenant set forth in one of its lines of credit. LendingTree Loans received a waiver of this covenant breach on February 8, 2008. The breach and the subsequent waiver did not have an impact on LendingTree Loans' other lines of credit and Tree.com does not expect it to have an impact on LendingTree Loans' ability to secure lines of credit in the future. Borrowings under all of LendingTree Loans' lines of credit are non-recourse to Tree.com. In the case of committed lines, LendingTree Loans pays a facility fee based on the size of the lines. There were \$79.4 million and \$338.5 million outstanding under these lines of credit as of December 31, 2007 and 2006, respectively. The weighted-average interest rates on outstanding borrowings under these lines of credit at December 31, 2007 and 2006 were 5.53% and 6.35%, respectively. Subsequent to December 31, 2007, the committed line of credit which expired on January 31, 2008 was renewed at a reduced size of \$50 million and an increased base rate of LIBOR plus 140 basis points and will expire on the earlier of sixty days prior to the spin-off or January 24, 2009. The renewed committed line of credit can be canceled at the option of the lender without default upon sixty days notice.

In connection with the acquisition of LendingTree Loans, Tree.com committed to pay a portion of the purchase price payments to former shareholders under an installment note payable in three installments. The final payment of \$20.0 million, due January 31, 2008, is recorded net of imputed interest of \$0.1 million at December 31, 2007.

At December 31, 2007 and 2006, Tree.com leased certain equipment under capital leases with interest rates ranging from approximately 6.8% to 9.5%. Included in other long-term obligations above as of December 31, 2007 are capital lease obligations totaling approximately \$0.3 million. Included in other long-term obligations above as of December 31, 2006 are capital lease obligations totaling approximately \$1.9 million, net of interest of \$0.1 million. Total fixed assets under capital leases at December 31, 2007 and 2006 approximate \$4.5 million and \$6.5 million, respectively, with accumulated depreciation of approximately \$2.7 million and \$3.6 million, respectively.

**NOTE 10—DERIVATIVE INSTRUMENTS**

Tree.com is exposed to certain interest rate risks in connection with its mortgage banking operations because the fair value of loans held for sale is subject to change primarily due to changes in market interest rates until those loans are sold in the secondary market. LendingTree Loans hedges the changes in fair value of loans held for sale primarily by entering into mortgage forward delivery contracts. Although LendingTree Loans continues to enter into forward delivery contracts for risk management purposes, effective April 1, 2007 it no longer designates these derivatives as hedges for accounting purposes.

Prior to April 1, 2007, the fair value of loans held for sale was determined using current secondary market prices for loans with similar coupons, maturities and credit quality and the carrying value of the loans held for sale and the related derivative instruments were adjusted for changes in fair value during the time the hedge was deemed to be highly effective. If it was determined that the hedging relationship was no longer highly effective, hedge accounting was discontinued. When hedge accounting was discontinued, the affected loans held for sale were no longer adjusted for changes in fair value. However, the changes in fair value of the forward delivery contracts continued to be recognized in current earnings as a component of revenue. The fair value of the forward delivery contracts is recorded in "Prepaid and other current assets" and/or "Accrued expenses and other current liabilities"

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 10—DERIVATIVE INSTRUMENTS (Continued)

in the accompanying consolidated balance sheets. For the year ended December 31, 2007, Tree.com recognized losses of \$1.1 million related to the changes in fair value of derivative instruments. For the years ended December 31, 2006 and 2005, Tree.com recognized losses of \$0.3 million and \$1.4 million, respectively, related to hedge ineffectiveness and gains of \$0.1 million and \$0.1 million, respectively, related to changes in the fair value of derivative instruments when hedge accounting was discontinued.

LendingTree Loans enters into commitments with consumers to originate loans at a locked in interest rate (interest rate lock commitments—"IRLCs"). Tree.com reports IRLCs as derivative instruments in accordance with SAB 105 and SFAS No. 133 and determines the fair value of IRLCs using current secondary market prices for underlying loans with similar coupons, maturity and credit quality, subject to the anticipated loan funding probability, or fallout factor. The fair value of IRLCs is subject to change primarily due to changes in interest rates and fallout factors. Under LendingTree Loans' risk management policy, LendingTree Loans hedges the changes in fair value of IRLCs primarily by entering into mortgage forward delivery contracts which can reduce the volatility of economic outcomes. Neither the IRLCs nor the related hedging instrument qualify for hedge accounting and both are recorded at fair value with changes in fair value being recorded in current earnings as a component of revenue in the statement of operations. The IRLCs are recorded in "Prepaid and other current assets" and/or "Accrued expenses and other current liabilities" in the accompanying consolidated balance sheets. The net change in the fair value of these derivative instruments for the years ended December 31, 2007, 2006 and 2005 resulted in losses of \$0.8 million, gains of \$0.2 million and losses of \$0.4 million, respectively, which have been recognized in the accompanying consolidated statements of operations. At December 31, 2007, there was \$157.8 million of IRLC's notional value outstanding.

## NOTE 11—COMMITMENTS

Tree.com leases office space, equipment and services used in connection with its operations under various operating leases, many of which contain escalation clauses.

Future minimum payments under operating lease agreements are as follows (in thousands):

Years Ending December 31,

2008	\$	7,168
2009		6,565
2010		3,109
2011		2,655
2012		2,328
Thereafter		5,808
<b>Total</b>	<b>\$</b>	<b>27,633</b>

Expenses charged to operations under these agreements were \$6.9 million, \$6.7 million and \$6.1 million for the years ended December 31, 2007, 2006 and 2005, respectively.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 11—COMMITMENTS (Continued)

Tree.com also has funding commitments that could potentially require its performance in the event of demands by third parties or contingent events, such as under letters of credit extended or under surety bonds, as follows (in thousands):

	Amount of Commitment Expiration Per Period				
	Total Amounts Committed	Less Than 1 Year	1-3 Years	3-5 Years	More Than 5 Years
Surety bonds and letters of credit	\$ 8,182	\$ 7,477	\$ 705	\$ —	\$ —
Purchase obligations	330	330	—	—	—
<b>Total commercial commitments</b>	<b>\$ 8,512</b>	<b>\$ 7,807</b>	<b>\$ 705</b>	<b>\$ —</b>	<b>\$ —</b>

The total commercial commitments above primarily consist of surety bonds relating to guarantees with mortgage brokers. The purchase obligations primarily relate to marketing event contracts in 2008.

## NOTE 12—CONTINGENCIES

On November 24, 2003, IMX, Inc. ("IMX") filed suit against Tree.com alleging infringement of a patent held by IMX and seeking damages related to the alleged infringement. A trial was conducted in January 2006 and a verdict was returned finding infringement by Tree.com and awarding IMX \$5.8 million in damages. Tree.com established a reserve of \$5.8 million in its 2005 financial statements related to this claim. In January 2007 the court enhanced the damages award and rejected Tree.com's counterclaim. During 2006, Tree.com increased the reserve by \$6.3 million to \$12.1 million at December 31, 2006. During 2007, the court awarded IMX supplemental damages and pre-judgment and post-judgment interest. During 2007, Tree.com increased the reserve by \$0.8 million to \$12.8 million at December 31, 2007. Tree.com has appealed this judgment to the U.S. Court of Appeals for the Federal Circuit. Tree.com intends to continue to contest this case through all available means. In connection with the appeal, Tree.com's parent, IAC, executed a guarantee of \$13.5 million in lieu of posting a bond. Before IAC completes the spin-off, Tree.com will have to post a bond in a like amount.

HLC is party to various employment related lawsuits. During 2006, Tree.com established a reserve of \$0.4 million for certain of these actions. During 2007, an additional reserve of \$2.1 million was recorded. The balance of the related liability was \$0.4 million and \$2.5 million at December 31, 2006 and 2007, respectively.

In addition, during 2007 the Company settled a lawsuit (as the plaintiff) and received a payment of \$15.0 million, which is reflected as a separate line in the accompanying consolidated statement of operations.

In the ordinary course of business, Tree.com is a party to various lawsuits. Tree.com establishes reserves for specific legal matters when it determines that the likelihood of an unfavorable outcome is probable and the loss is reasonably estimable. Management has also identified certain other legal matters where it believes an unfavorable outcome is not probable and, therefore, no reserve is established. Although management currently believes that an unfavorable resolution of claims against Tree.com, including claims where an unfavorable outcome is reasonably possible, will not have a material impact on the liquidity, results of operations, or financial condition of Tree.com, these matters are subject to inherent uncertainties and management's view of these matters may change in the future. It is possible that an unfavorable outcome of one or more of these lawsuits could have a material impact on the liquidity, results of operations, or financial condition of Tree.com. Tree.com also

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

NOTE 12—CONTINGENCIES (Continued)

evaluates other contingent matters, including tax contingencies, to assess the probability and estimated extent of potential loss. See Note 7 for discussion related to income tax contingencies.

NOTE 13—FINANCIAL INSTRUMENTS

The additional disclosure below of the estimated fair value of financial instruments has been determined by Tree.com using available market information and appropriate valuation methodologies when available. Tree.com's financial instruments include letters of credit and surety bonds. These commitments are in place to facilitate the commercial operations of certain Tree.com subsidiaries.

	December 31, 2007		December 31, 2006	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
(In thousands)				
Cash and cash equivalents	\$ 45,940	\$ 45,940	\$ 99,498	\$ 99,498
Restricted cash and cash equivalents	14,953	14,953	15,467	15,467
Accounts receivable, net	12,433	12,433	21,581	21,581
Loans held for sale	86,754	89,397	345,896	357,859
Long-term obligations and short-term borrowings	(99,622)	(99,622)	(369,419)	(369,419)
Derivative asset related to loans held for sale and interest rate lock commitments	719	719	3,859	3,859
Derivative liability related to loans held for sale and interest rate lock commitments	(1,185)	(1,185)	(2,470)	(2,470)
Surety bonds and letters of credit	N/A	(8,182)	N/A	(7,489)

The carrying amounts of cash and cash equivalents reflected in the accompanying consolidated balance sheets approximate fair value as they are redeemable at par upon notice or maintained with various high-quality financial institutions. Restricted cash and cash equivalents are primarily maintained with credit line providers, primarily warehouse lines, for the purpose of maintaining financial covenants. Accounts receivable, net, are short-term in nature and are generally settled shortly after the sale. The market value of loans held for sale, net, was estimated using current secondary market prices for loans with similar coupons, maturities and credit quality, subject to the anticipated loan funding probability, or fallout factor. The fair values of derivative asset and liability contracts were estimated based on the difference between the current value of similar loans and the price at which Tree.com has committed to originate the loans, subject to the expected close rate of the loans, or fallout factor. The carrying amounts for the remaining long-term obligations and short-term borrowings and all other financial instruments approximate their fair value.

NOTE 14—SUPPLEMENTAL CASH FLOW INFORMATION

Supplemental Disclosure of Cash Flow Information:

	Years Ended December 31,		
	2007	2006	2005
(In thousands)			
Cash paid during the period for:			
Interest	\$ 14,888	\$ 19,056	\$ 12,626
Income tax payments including amounts paid to IAC for Tree.com's share of IAC's consolidated tax liability	6,426	3,046	7,258
Income tax refunds	—	(26)	(403)

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 15—RELATED PARTY TRANSACTIONS

Tree.com has various agreements with Microsoft Corporation ("Microsoft"), which was the beneficial owner of more than 5% of IAC's outstanding common stock during 2006 and 2005. These agreements include partner agreements, licensing agreements and support agreements. Total fees paid related to these agreements in 2006 and 2005 were approximately \$21.8 million and \$8.5 million, respectively. Amounts payable related to these various agreements at December 31, 2006 were \$1.2 million and are included in "Accrued expenses and other current liabilities" in the accompanying consolidated balance sheets. In the first quarter of 2007, Microsoft publicly disclosed that it was no longer the beneficial owner of 5% or more of IAC's outstanding common stock, and as a result, it is no longer a related party.

During the period from January 1, 2005 through June 6, 2005, Tree.com paid \$6.9 million to the National Broadcasting Company, a subsidiary of GE, related to television advertising. As a result of the sale of IAC's common and preferred interests in VUE on June 7, 2005, GE and its subsidiaries are no longer related parties.

Tree.com's expenses include allocations from IAC of costs associated with IAC's accounting, treasury, legal, tax, corporate support, human resources and internal audit functions. These expenses were allocated based on the ratio of Tree.com's revenue as a percentage of IAC's total revenue. Allocated costs were \$1.0 million, \$1.2 million and \$1.1 million in 2007, 2006 and 2005, respectively, and are included in "General and administrative expense" in the accompanying consolidated statements of operations. It is not practicable to determine the amounts of these expenses that would have been incurred had Tree.com operated as an unaffiliated entity. In the opinion of management, the allocation method is reasonable.

The portion of interest income reflected in the consolidated statements of operations that is intercompany in nature, was \$1.0 million and \$1.1 million for the years ended December 31, 2007 and 2006, respectively. This intercompany interest arose from the transfer of cash from Tree.com to IAC that occurred in connection with IAC's treasury operations.

An analysis of Tree.com's payables to IAC and subsidiaries is as follows (in thousands):

	2007	2006
Payables to IAC and subsidiaries, beginning of year	\$ (29,126)	\$ (26,410)
Cash transfers related to IAC's centrally managed U.S. treasury function	35,652	34,079
Interest income	1,000	1,062
Employee equity instruments and associated tax withholdings	1,253	894
Taxes (excludes tax withholdings associated with employee equity instruments)	5,158	(3,041)
Allocation of non-cash compensation expense	(3,139)	(3,501)
Administrative expenses and other	(30,865)	(32,209)
Payables to IAC and subsidiaries, end of year	\$ (20,067)	\$ (29,126)

**Relationship Between IAC and Tree.com after the Spin-Off**

For purposes of governing certain of the ongoing relationships between Tree.com and IAC at and after the spin-off, and to provide for an orderly transition, Tree.com and IAC are expected to enter into a separation agreement, a tax sharing agreement, an employee matters agreement and a transition services agreement (the "Spin-Off Agreements"), among other agreements.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 15—RELATED PARTY TRANSACTIONS (Continued)

***Separation Agreement***

The separation agreement is expected to provide generally that (i) immediately prior to the spin-off, IAC will contribute or otherwise transfer to Tree.com all of the subsidiaries and assets comprising the Tree.com Businesses, (ii) Tree.com will assume all of the liabilities related to the Tree.com Businesses, (iii) each party will indemnify the other and its respective affiliates, current and former directors, officers and employees for any losses arising out of any breach of any of the Spin-Off Agreements and (iv) Tree.com will indemnify IAC for its failure to assume and perform any assumed liabilities and any liabilities relating to Tree.com, financial and business information included in the SEC documentation filed with respect to the spin-off, as well as such other terms as to which IAC and Tree.com mutually agree.

***Tax Sharing Agreement***

The tax sharing agreement will govern the respective rights, responsibilities and obligations of IAC and Tree.com after the spin-off with respect to taxes for the periods ending on or before the spin-off. Generally, IAC will pay taxes with respect to Tree.com income included on its consolidated, unitary or combined federal or state tax returns including audit adjustments with respect thereto. Other pre-distribution taxes that are attributable to the Tree.com Businesses, including taxes reported on separately-filed returns and audit adjustments with respect thereto, will be borne solely by Tree.com. The tax sharing agreement is expected to contain certain customary restrictive covenants that generally prohibit Tree.com (absent a supplemental IRS ruling or an unqualified opinion of counsel to the contrary, in each case, in a form and substance satisfactory and acceptable to IAC in its sole discretion) from taking actions that could jeopardize the tax free nature of the spin-off. Tree.com is expected to agree to indemnify IAC for any taxes and related losses resulting from its non-compliance with these restrictive covenants, as well as for the breach of certain representations in the Spin-Off Agreements and other documentation relating to the tax-free nature of the spin-off.

***Employee Matters Agreement***

The employee matters agreement will generally provide that Tree.com will be responsible for, among other obligations, all employment and benefit-related obligations and liabilities related to its employees immediately prior to the spin-off (and their dependents and beneficiaries) and former employees who most recently worked for the Tree.com Businesses. This agreement is also expected to provide that assets and liabilities from the IAC Retirement Savings Plan of Tree.com employees will be transferred to a newly established Tree.com Retirement Savings Plan as soon as practicable following the spin-off.

***Transition Services Agreement***

Under the transition services agreement, beginning on the date of the completion of the spin-off, IAC will provide to Tree.com on an interim, transitional basis, various services, which are expected to relate primarily to public company and operational matters, and such other services as to which IAC and Tree.com mutually agree. The agreed upon charges for these services will generally allow IAC to recover fully the allocated costs of providing the services, plus all out-of-pocket costs and expenses. Tree.com may terminate the agreement with respect to one or more particular services upon prior written notice.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 15—RELATED PARTY TRANSACTIONS (Continued)

*Commercial Agreements*

IAC and Tree.com currently, and for the foreseeable future, expect to provide certain services to each other pursuant to certain commercial relationships. In connection with the spin-off, IAC and Tree.com will enter into a number of commercial agreements between subsidiaries of IAC, on the one hand, and subsidiaries of Tree.com, on the other hand, many of which will memorialize (in most material respects) pre-existing arrangements in effect prior to the spin-off and all of which are intended to reflect arm's length terms. In addition, IAC and Tree.com believe that such agreements, whether taken individually or in the aggregate, do not constitute a material contract to either IAC or Tree.com.

Aggregate revenue earned with respect to these commercial agreements by the Tree.com Businesses was not material in 2007, 2006 and 2005. The Tree.com Businesses incurred approximately \$0.4 million, \$1.9 million and \$0.9 million in 2007, 2006 and 2005, respectively, in expenses related to these commercial agreements with IAC subsidiaries.

## NOTE 16—BENEFIT PLANS

During the three years ended December 31, 2007, Tree.com either participated in a retirement savings plan sponsored by IAC or had a retirement savings plan in the United States that was qualified under Section 401(k) of the Internal Revenue Code. Subsequent to the spin-off, the net assets available for benefits of the employees of Tree.com are expected to be transferred from the IAC plan to a newly created Tree.com plan. Under the IAC plan, participating employees may contribute up to 16% of their pretax earnings, but not more than statutory limits. Tree.com's match under the IAC plan is fifty cents for each dollar a participant contributes in this plan, with a maximum contribution of 3% of a participant's eligible earnings. Matching contributions for all plans were approximately \$2.7 million, \$3.0 million and \$2.3 million in 2007, 2006, and 2005, respectively. The decrease in matching contributions in 2007 is primarily due to the reduction in workforce associated with the current year restructuring. The increase in matching contributions in 2006 is primarily due to increased participation in the plan. Matching contributions are invested in the same manner as each participant's voluntary contributions in the investment options provided under the plan. Investment options in the plan include IAC common stock, but neither participant nor matching contributions are required to be invested in IAC common stock.

## NOTE 17—RESTRUCTURING CHARGES

Restructuring charges were approximately \$22.9 million in 2007. Costs that relate to ongoing operations are not part of restructuring charges.

The restructuring charges primarily relate to Tree.com's significant reduction in its mortgage origination operations in response to the persistent adverse mortgage market conditions. Restructuring charges by segment and type are as follows:

	For the Year Ended December 31, 2007				
	Employee Termination Costs	Continuing Lease Obligations	Asset Write-offs	Other	Total
	(In thousands)				
Lending	\$ 8,973	\$ 5,004	\$ 7,510	\$ 80	\$ 21,567
Real Estate	333	—	493	474	1,300
<b>Total</b>	<b>\$ 9,306</b>	<b>\$ 5,004</b>	<b>\$ 8,003</b>	<b>\$ 554</b>	<b>\$ 22,867</b>

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 17—RESTRUCTURING CHARGES (Continued)

Restructuring charges and spending against liabilities are as follows:

	For the Year Ended December 31, 2007				
	Employee Termination Costs	Continuing Lease Obligations	Asset Write-offs	Other	Total
	(In thousands)				
Balance, beginning of period	\$ —	\$ —	\$ —	\$ —	\$ —
Restructuring charges	9,306	5,004	8,003	554	22,867
Payments	(7,242)	(1,633)	—	—	(8,875)
Write-offs	—	514	(8,003)	—	(7,489)
Balance, end of period	\$ 2,064	\$ 3,885	\$ —	\$ 554	\$ 6,503

At December 31, 2007, restructuring liabilities of \$5.6 million are included in "Accrued expenses and other current liabilities" and \$0.9 million are included in "Other long-term liabilities" in the accompanying consolidated balance sheet. Tree.com does not expect to incur significant additional costs related to the 2007 restructuring.

## NOTE 18—QUARTERLY RESULTS (UNAUDITED)

	Quarter Ended March 31,	Quarter Ended June 30,	Quarter Ended September 30,	Quarter Ended December 31,(a)
	(In thousands)			
<b>Year Ended December 31, 2007</b>				
Revenue	\$ 109,999	\$ 110,639	\$ 74,953	\$ 50,787
Gross margin	89,503	89,697	56,674	37,390
Operating loss	(8,404)	(11,756)	(11,916)	(508,364)
Net loss	(5,123)	(7,492)	(6,293)	(531,494)
<b>Year Ended December 31, 2006</b>				
Revenue	\$ 122,658	\$ 120,747	\$ 120,230	\$ 112,843
Gross margin	104,749	101,910	100,844	95,758
Operating income	922	1,455	5,811	5,983
Net income	386	746	3,240	4,321

(a) The fourth quarter of 2007 includes an impairment charge of \$475.7 million related to the write-down of Lending's goodwill and intangible assets.

## TREE.COM AND SUBSIDIARIES

## VALUATION AND QUALIFYING ACCOUNTS

Description	Balance at Beginning of Period	Charges to Earnings	Charges to Other Accounts	Deductions	Balance at End of Period
	(In thousands)				
<b>2007</b>					
Allowance for doubtful accounts	\$ 1,129	\$ 1,925	\$ —	\$ (2,732) <sup>(2)</sup>	\$ 322
Deferred tax valuation allowance	5,835	62,995 <sup>(1)</sup>	—	—	68,830
<b>2006</b>					
Allowance for doubtful accounts	\$ 727	\$ 1,768	\$ —	\$ (1,366) <sup>(2)</sup>	\$ 1,129
Deferred tax valuation allowance	3,652	2,183 <sup>(1)</sup>	—	—	5,835
<b>2005</b>					
Allowance for doubtful accounts	\$ 594	\$ 560	\$ —	\$ (427) <sup>(2)</sup>	\$ 727
Deferred tax valuation allowance	735	2,917 <sup>(1)</sup>	—	—	3,652

(1) Amount is primarily related to Tree.com net operating losses and other deferred tax assets including accrued expenses and goodwill which impacted the income tax provision.

(2) Write-off of uncollectible accounts receivable.

**TREE.COM, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF OPERATIONS**  
(Unaudited)

	Three Months Ended March 31,	
	2008	2007
	(In thousands)	
<b>Revenue</b>		
Lending services	\$ 61,811	\$ 96,768
Real estate services	8,382	13,231
	70,193	109,999
<b>Cost of revenue</b>		
Lending services	12,796	14,312
Real estate services	4,970	6,184
	17,766	20,496
<b>Total cost of revenue (exclusive of depreciation shown separately below)</b>		
Gross margin	52,427	89,503
Selling and marketing expense	33,197	56,478
General and administrative expense	20,764	30,046
Product development	2,109	4,270
Restructuring expense	402	—
Amortization of intangibles	3,668	4,274
Depreciation	1,775	2,839
	(9,488)	(8,404)
<b>Operating loss</b>		
<b>Other income (expense):</b>		
Interest income	9	70
Interest expense	(109)	(280)
Other (expense) income	(2)	1
	(102)	(209)
<b>Total other expense, net</b>		
Loss before income taxes	(9,590)	(8,613)
Income tax (provision) benefit	(209)	3,490
	(9,799)	(5,123)
<b>Net loss</b>	\$ (9,799)	\$ (5,123)

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

TREE.COM, INC. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS

	March 31, 2008	December 31, 2007
	(unaudited)	(audited)
	(In thousands)	
<b>ASSETS</b>		
Cash and cash equivalents	\$ 52,516	\$ 45,940
Restricted cash and cash equivalents	2,442	14,953
Accounts receivable, net of allowance of \$382 and \$322, respectively	14,460	12,433
Loans held for sale	91,185	86,754
Deferred income taxes	6,420	6,420
Prepaid and other current assets	9,607	6,011
	<hr/>	<hr/>
Total current assets	176,630	172,511
Property and equipment, net	20,582	21,466
Goodwill	140,619	140,892
Intangible assets, net	104,772	108,440
Other non-current assets	207	278
	<hr/>	<hr/>
<b>TOTAL ASSETS</b>	<b>\$ 442,810</b>	<b>\$ 443,587</b>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
<b>LIABILITIES:</b>		
Short-term borrowings and current maturities of long-term obligations	\$ 78,754	\$ 99,622
Accounts payable, trade	6,991	3,335
Deferred revenue	1,397	1,435
Income taxes payable	913	993
Accrued expenses and other current liabilities	69,913	83,613
	<hr/>	<hr/>
Total current liabilities	157,968	188,998
Income taxes payable	819	730
Other long-term liabilities	2,257	2,529
Deferred income taxes	37,221	36,706
Commitments and contingencies		
<b>SHAREHOLDERS' EQUITY:</b>		
Invested capital	766,374	751,923
Payables to IAC and subsidiaries	42,237	20,067
Accumulated deficit	(564,066)	(557,366)
	<hr/>	<hr/>
Total shareholders' equity	244,545	214,624
	<hr/>	<hr/>
<b>TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY</b>	<b>\$ 442,810</b>	<b>\$ 443,587</b>

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

TREE.COM, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENT OF SHAREHOLDERS' EQUITY

(Unaudited)

	Total	Invested Capital	Payables to IAC and Subsidiaries	Accumulated Deficit
	(In thousands)			
<b>Balance as of December 31, 2007</b>	\$ 214,624	\$ 751,923	\$ 20,067	\$ (557,366)
Comprehensive loss:				
Net loss for the three months ended March 31, 2008	(9,799)	—	—	(9,799)
Comprehensive loss	(9,799)			
Cumulative effect of adoption of SFAS No. 157	3,099	—	—	3,099
Net transfers from IAC (principally funding of contingent consideration paid to former shareholders of Home Loan Center)	14,451	14,451	—	—
Net change in payables to IAC and subsidiaries	22,170	—	22,170	—
<b>Balance as of March 31, 2008</b>	<b>\$ 244,545</b>	<b>\$ 766,374</b>	<b>\$ 42,237</b>	<b>\$ (564,066)</b>

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

TREE.COM, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS

(Unaudited)

	Three Months Ended March 31,	
	2008	2007
(In thousands)		
<b>Cash flows from operating activities:</b>		
Net loss	\$ (9,799)	\$ (5,123)
Adjustments to reconcile net loss to net cash used in operating activities:		
Amortization of intangibles	3,668	4,274
Depreciation	1,775	2,839
Non-cash compensation expense	556	1,121
Non-cash restructuring expense	337	—
Deferred income taxes	192	(4,535)
Gain on sales of loans held for sale	(23,573)	(48,617)
Provision for loans losses	784	1,548
Bad debt expense	238	613
Non-cash interest expense	76	249
Changes in current assets and liabilities:		
Accounts receivable	(1,233)	(4,481)
Origination of loans held for sale	(611,490)	(1,997,623)
Proceeds from sales of loans held for sale	628,501	1,981,313
Prepaid and other current assets	(424)	(2,663)
Accounts payable and other current liabilities	4,767	(2,930)
Income taxes payable	310	(392)
Deferred revenue	(127)	177
Other, net	(181)	(359)
<b>Net cash used in operating activities</b>	<b>(5,623)</b>	<b>(74,589)</b>
<b>Cash flows from investing activities:</b>		
Contingent consideration paid to former shareholders of Home Loan Center	(14,487)	—
Capital expenditures	(1,470)	(3,698)
Other, net	4	1
<b>Net cash used in investing activities</b>	<b>(15,953)</b>	<b>(3,697)</b>
<b>Cash flows from financing activities:</b>		
Borrowing under lines of credit	553,141	1,947,302
Repayments of lines of credit	(553,828)	(1,884,903)
Principal payments on long-term obligations	(20,031)	(10,449)
Transfers from IAC	21,774	17,960
Capital contributions from IAC	14,487	—
Excess tax benefits from stock-based awards	98	484
Decrease (increase) in restricted cash	12,511	(843)
<b>Net cash provided by financing activities</b>	<b>28,152</b>	<b>69,551</b>
<b>Net increase (decrease) in cash and cash equivalents</b>	<b>6,576</b>	<b>(8,735)</b>
Cash and cash equivalents at beginning of period	45,940	99,498
<b>Cash and cash equivalents at end of period</b>	<b>\$ 52,516</b>	<b>\$ 90,763</b>

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

## NOTE 1—ORGANIZATION

**Spin-Off**

On November 5, 2007, IAC/InterActiveCorp ("IAC") announced that its Board of Directors approved a plan to separate IAC into five publicly traded companies, identifying Tree.com, Inc. ("Tree.com") as one of those five companies. In these consolidated financial statements, we refer to the separation transaction as the "spin-off." In connection with the spin-off, Tree.com was incorporated as a Delaware corporation in April 2008. Tree.com currently does not have any material assets or liabilities, nor does it engage in any business or other activities and, other than in connection with the spin-off, will not acquire or incur any material assets or liabilities, nor will it engage in any business or other activities. Upon completion of the spin-off, Tree.com will consist of the businesses that formerly comprised IAC's Lending and Real Estate segments. We refer herein to these businesses as the "Tree.com Businesses," which include LendingTree.com, RealEstate.com, GetSmart.com, LendingTree Loans, iNest and Domania.

**Basis of Presentation**

The historical consolidated financial statements of Tree.com and its subsidiaries reflect the contribution or other transfer to Tree.com of all of the subsidiaries and assets and the assumption by Tree.com of all of the liabilities relating to the Tree.com Businesses in connection with the spin-off and the allocation to Tree.com of certain IAC corporate expenses relating to the Tree.com Businesses. Accordingly, the historical consolidated financial statements of Tree.com reflect the historical financial position, results of operations and cash flows of the Tree.com Businesses since their respective dates of acquisition by IAC, based on the historical consolidated financial statements and accounting records of IAC and using the historical results of operations and historical bases of the assets and liabilities of the Tree.com Businesses with the exception of accounting for income taxes. For purposes of these financial statements, income taxes have been computed for Tree.com on an as if stand-alone, separate tax return basis. Intercompany transactions and accounts have been eliminated.

In the opinion of Tree.com's management, the assumptions underlying the historical consolidated financial statements of Tree.com are reasonable. However, this financial information does not necessarily reflect what the historical financial position, results of operations and cash flows of Tree.com would have been had Tree.com been a stand-alone company during the periods presented.

The accompanying unaudited consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles for interim financial information and with the rules and regulations of the Securities and Exchange Commission. Accordingly, they do not include all of the information and notes required by U.S. generally accepted accounting principles for complete financial statements. In the opinion of Tree.com's management, all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation have been included. Interim results are not necessarily indicative of the results that may be expected for a full year. The accompanying unaudited consolidated financial statements should be read in conjunction with Tree.com's audited consolidated financial statements and notes thereto for the year ended December 31, 2007.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

**NOTE 1—ORGANIZATION (Continued)****Company Overview****Lending**

Lending consists of online networks (principally LendingTree.com and GetSmart.com) and call centers that connect consumers and financial providers in the lending industry. Tree.com also originates, processes, approves and funds various residential real estate loans through Home Loan Center ("HLC"), which does business as LendingTree Loans in certain jurisdictions. The HLC and LendingTree Loans brand names are collectively referred to in these consolidated financial statements as "LendingTree Loans." Additionally, Tree.com provides mortgage settlement services, including title search, appraisals, flood certification and closing transactions, under the name "LendingTree Settlement Services."

**Real Estate**

Real Estate consists of a proprietary full service real estate brokerage that operates in fourteen U.S. markets, *www.RealEstate.com*, an online network that connects consumers with real estate brokerages around the country, iNest, an online network that matches buyers and builders of new homes, and Domania, an online lead provider for banks, mortgage lenders and real estate professionals.

**NOTE 2—SIGNIFICANT ACCOUNTING POLICIES****Accounting Estimates**

Tree.com's management is required to make certain estimates and assumptions during the preparation of the consolidated financial statements in accordance with U.S. generally accepted accounting principles. These estimates and assumptions impact the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities as of the date of the consolidated financial statements. They also impact the reported amount of net earnings during any period. Actual results could differ from those estimates.

Significant estimates underlying the accompanying consolidated financial statements include: reserves for losses associated with loans held for sale and loans that have been previously sold; the fair value of loans held for sale and related derivatives; the recoverability of long-lived assets; the recovery of goodwill and intangible assets; the determination of income taxes payable and deferred income taxes, including related valuation allowances; various other allowances, reserves and accruals; and assumptions related to the determination of stock-based compensation.

**Recent Accounting Pronouncements**

In December 2007, the Financial Accounting Standards Board ("FASB") issued SFAS No. 160, "Noncontrolling Interests in Consolidated Financial Statements—an amendment of Accounting Research Bulletin No. 51" ("SFAS No. 160"). SFAS No. 160 establishes accounting and reporting standards for ownership interests in subsidiaries held by parties other than the parent, the amount of consolidated net income attributable to the parent and to the noncontrolling interest, changes in a parent's ownership interest and the valuation of retained noncontrolling equity investments when a subsidiary is deconsolidated. The Statement also establishes reporting requirements that provide sufficient disclosures that clearly identify and distinguish between the interests of the parent and the

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 2—SIGNIFICANT ACCOUNTING POLICIES (Continued)

interests of the noncontrolling owners. SFAS No. 160 is effective for fiscal years beginning after December 15, 2008. SFAS No. 160 will be applied prospectively, except as it relates to disclosures, for which the effects will be applied retrospectively for all periods presented. Early adoption is not permitted. Tree.com is currently assessing the impact of SFAS No. 160 on its consolidated financial position, results of operations and cash flows.

In December 2007, the FASB issued SFAS No. 141 (revised 2007), "Business Combinations" ("SFAS No. 141R"), which replaces FASB Statement No. 141. SFAS No. 141R establishes principles and requirements for how an acquirer recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed, any noncontrolling interest in the acquiree and the goodwill acquired. The Statement also establishes disclosure requirements that will enable users to evaluate the nature and financial effects of the business combination. SFAS No. 141R applies prospectively to business combinations in fiscal years beginning after December 15, 2008. Early adoption is not permitted. Tree.com is currently assessing the impact of the adoption of SFAS No. 141R on its consolidated financial position, results of operations and cash flows.

## NOTE 3—GOODWILL AND INTANGIBLE ASSETS

The balance of goodwill and intangible assets, net is as follows (in thousands):

	March 31, 2008	December 31, 2007
Goodwill	\$ 140,619	\$ 140,892
Intangible assets with indefinite lives	88,607	88,607
Intangible assets with definite lives, net	16,165	19,833
Total goodwill and intangible assets, net	\$ 245,391	\$ 249,332

Intangible assets with indefinite lives relate principally to trade names and trademarks acquired in various acquisitions. At March 31, 2008, intangible assets with definite lives relate to the following (in thousands):

	Cost	Accumulated Amortization	Net	Weighted Average Amortization Life (Years)
Purchase agreements	\$ 76,117	\$ (62,544)	\$ 13,573	5.7
Technology	29,100	(28,794)	306	3.0
Customer lists	6,607	(6,607)	—	2.8
Other	8,928	(6,642)	2,286	4.9
Total	\$ 120,752	\$ (104,587)	\$ 16,165	

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 3—GOODWILL AND INTANGIBLE ASSETS (Continued)

At December 31, 2007, intangible assets with definite lives relate to the following (in thousands):

	Cost	Accumulated Amortization	Net	Weighted Average Amortization Life (Years)
Purchase agreements	\$ 76,117	\$ (59,212)	\$ 16,905	5.7
Technology	29,100	(28,663)	437	3.0
Customer lists	6,607	(6,607)	—	2.8
Other	8,928	(6,437)	2,491	4.9
<b>Total</b>	<b>\$ 120,752</b>	<b>\$ (100,919)</b>	<b>\$ 19,833</b>	

Amortization of intangible assets with definite lives is computed on a straight-line basis and, based on December 31, 2007 balances, such amortization for the next five years is estimated to be as follows (in thousands):

## Years Ending December 31,

2008	\$ 10,883
2009	4,138
2010	2,768
2011	1,218
2012	826
	<b>\$ 19,833</b>

The following table presents the balance of goodwill by segment, including changes in the carrying amount of goodwill, for the three months ended March 31, 2008 (in thousands):

	Balance as of January 1, 2008	Additions	(Deductions)	Balance as of March 31, 2008
Lending	\$ 70,766	\$ —	\$ (262)	\$ 70,504
Real Estate	70,126	—	(11)	70,115
<b>Total</b>	<b>\$ 140,892</b>	<b>\$ —</b>	<b>\$ (273)</b>	<b>\$ 140,619</b>

Deductions principally relate to the establishment of deferred tax assets related to acquired tax attributes and the income tax benefit realized pursuant to the exercise of stock options assumed in a business acquisition that were vested at the transaction date and are treated as a reduction in goodwill when the income tax deductions are realized.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

NOTE 4—PROPERTY AND EQUIPMENT

The balance of property and equipment, net is as follows (in thousands):

	March 31, 2008	December 31, 2007
Computer equipment and capitalized software	\$ 35,278	\$ 35,183
Leasehold improvements	3,204	3,076
Furniture and other equipment	3,923	3,737
Projects in progress	4,728	5,002
	<u>47,133</u>	<u>46,998</u>
Less: accumulated depreciation and amortization	(26,551)	(25,532)
	<u>20,582</u>	<u>21,466</u>
Total property and equipment, net	\$ 20,582	\$ 21,466

NOTE 5—SEGMENT INFORMATION

The overall concept that Tree.com employs in determining its operating segments and related financial information is to present them in a manner consistent with how the chief operating decision maker and executive management view the businesses, how the businesses are organized as to segment management, and the focus of the businesses with regards to the types of products or services offered or the target market.

Tree.com's primary metric is Operating Income Before Amortization, which is defined as operating income excluding, if applicable: (1) non-cash compensation expense, (2) amortization of intangibles and goodwill impairment, (3) pro forma adjustments for significant acquisitions, and (4) one-time items. Tree.com believes this measure is useful to investors because it represents the operating results from Tree.com's segments taking into account depreciation, which it believes is an ongoing cost of doing business, but excluding the effects of any other non-cash expenses. Operating Income Before Amortization has certain limitations in that it does not take into account the impact to Tree.com's statement of operations of certain expenses, including non-cash compensation, and acquisition related accounting.

The following tables reconcile Operating Income Before Amortization to operating loss for Tree.com's operating segments and to net loss in total (in thousands):

	For the Three Months Ended March 31, 2008:			
	Operating Income Before Amortization	Non-Cash Compensation Expense	Amortization of Intangibles	Operating Loss
Lending	\$ (1,298)	\$ (391)	\$ (2,560)	\$ (4,249)
Real Estate	(3,966)	(165)	(1,108)	(5,239)
	<u>(5,264)</u>	<u>(556)</u>	<u>(3,668)</u>	<u>(9,488)</u>
Total	\$ (5,264)	\$ (556)	\$ (3,668)	(9,488)
Other expense, net				(102)
Loss before income taxes				(9,590)
Income tax provision				(209)
Net loss				<u>\$ (9,799)</u>

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 5—SEGMENT INFORMATION (Continued)

	For the Three Months Ended March 31, 2007:			
	Operating Income Before Amortization	Non-Cash Compensation Expense	Amortization of Intangibles	Operating Loss
Lending	\$ 3,239	\$ (742)	\$ (2,890)	\$ (393)
Real Estate	(6,248)	(379)	(1,384)	(8,011)
<b>Total</b>	<b>\$ (3,009)</b>	<b>\$ (1,121)</b>	<b>\$ (4,274)</b>	<b>(8,404)</b>
Other expense, net				(209)
Loss before income taxes				(8,613)
Income tax benefit				3,490
<b>Net loss</b>				<b>\$ (5,123)</b>

Non-cash compensation expense in the tables above is included in the following line items in the accompanying consolidated statements of operations for the three months ended March 31, 2008 and 2007 (in thousands):

	Three Months Ended March 31,	
	2008	2007
Cost of revenue	\$ 37	\$ 79
Selling and marketing expense	41	85
General and administrative expense	477	956
Product development	1	1
<b>Non-cash compensation expense</b>	<b>\$ 556</b>	<b>\$ 1,121</b>

	Three Months Ended March 31,	
	2008	2007
(In thousands)		
<b>Revenue:</b>		
Origination and sale of loans	\$ 28,007	\$ 48,617
Match fees	19,858	23,749
Closed loan fees	10,741	18,823
Other	3,205	5,579
Lending	61,811	96,768
Real Estate	8,382	13,231
<b>Total</b>	<b>\$ 70,193</b>	<b>\$ 109,999</b>

Tree.com maintains operations solely in the United States.

## NOTE 6—FAIR VALUE MEASUREMENTS

Effective January 1, 2008, Tree.com adopted SFAS No. 157, "Fair Value Measurements" ("SFAS No. 157"). In accordance with SFAS No. 157, Tree.com categorizes its assets and liabilities measured at

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

NOTE 6—FAIR VALUE MEASUREMENTS (Continued)

fair value into a fair value hierarchy that prioritizes the assumptions used in pricing the asset or liability into the following three levels:

- Level 1: Observable inputs such as quoted prices for identical assets and liabilities in active markets obtained from independent sources.
- Level 2: Other inputs that are observable directly or indirectly, such as quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in markets that are not active and inputs that are derived principally from or corroborated by observable market data.
- Level 3: Unobservable inputs for which there is little or no market data and require Tree.com to develop its own assumptions, based on the best information available in the circumstances, about the assumptions market participants would use in pricing the asset or liability.

The following table presents Tree.com's assets and liabilities that are measured at fair value on a recurring basis at March 31, 2008 (in thousands):

	Recurring Fair Value Measurements Using			
	Quoted Market Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Total Fair Value Measurements
Loans held for sale	\$ —	\$ 87,532	\$ —	\$ 87,532
Net derivatives related to loans held for sale and interest rate lock commitments	—	(1,612)	5,264	3,652
<b>Total</b>	<b>\$ —</b>	<b>\$ 85,920</b>	<b>\$ 5,264</b>	<b>\$ 91,184</b>

The following table presents the changes in Tree.com's assets and liabilities that are measured at fair value on a recurring basis using significant unobservable inputs (Level 3) (in thousands):

	Net Derivatives Related to Loans Held for Sale and Interest Rate Lock Commitments
Balance at January 1, 2008	\$ 3,465
Total net gains or losses (realized and unrealized):	
Included in earnings	15,361
Included in other comprehensive income	—
Transfers of IRLCs to closed loans	(13,094)
Transfers in and/or out of Level 3	(468)
<b>Balance at March 31, 2008</b>	<b>\$ 5,264</b>

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 6—FAIR VALUE MEASUREMENTS (Continued)

The following table presents the gains and losses included in earnings for the three months ended March 31, 2008 relating to Tree.com's assets and liabilities that are measured at fair value on a recurring basis using significant unobservable inputs (Level 3) (in thousands):

		Net Derivatives Related to Loans Held for Sale and Interest Rate Lock Commitments
Total gains included in earnings for the three months ended March 31, 2008, which are included in revenue	\$	15,361
Change in unrealized gains relating to assets and liabilities still held at March 31, 2008, which are included in revenue	\$	5,264

**Net derivatives related to loans held for sale and interest rate lock commitments**

LendingTree Loans hedges the changes in fair value of certain loans held for sale primarily by entering into mortgage forward delivery contracts. Although LendingTree Loans continues to enter into forward delivery contracts for risk management purposes, effective April 1, 2007 it no longer designates these derivatives as hedges for accounting purposes. When hedge accounting was discontinued, the affected loans held for sale were no longer adjusted for changes in fair value. However, the changes in fair value of the forward delivery contracts continued to be recognized in current earnings as a component of revenue. The fair value of the forward delivery contracts is recorded in "Prepaid and other current assets" and/or "Accrued expenses and other current liabilities" in the accompanying consolidated balance sheets. For the three months ended March 31, 2008, Tree.com recognized losses of less than \$0.1 million related to the changes in fair value of forward delivery contracts related to loans held for sale.

LendingTree Loans enters into commitments with consumers to originate loans at a locked in interest rate (interest rate lock commitments—"IRLCs"). Tree.com reports IRLCs as derivative instruments at fair value in accordance with SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities" ("SFAS No. 133"). Accordingly, LendingTree Loans determines the fair value of IRLCs using current secondary market prices for underlying loans with similar coupons, maturity and credit quality, subject to the anticipated loan funding probability, or fallout factor. The fair value of IRLCs is subject to change primarily due to changes in interest rates and fallout factors. Under LendingTree Loans' risk management policy, LendingTree Loans hedges the changes in fair value of IRLCs primarily by entering into mortgage forward delivery contracts which can reduce the volatility of economic outcomes. Neither the IRLCs nor the related hedging instrument qualify for hedge accounting and both are recorded at fair value with changes in fair value being recorded in current earnings as a component of revenue in the statement of operations.

Prior to the adoption of SFAS No. 157 the recognition of gains and losses at the inception of a derivative contract were prohibited unless the fair value of the contract was evidenced by a quoted price in an active market. As no active market exists for IRLCs, such day one gains and losses were not recognized until the related loan was sold. Prior to January 1, 2008, guidance also prohibited including the value of servicing the loan in calculating the fair value of an IRLC. Such guidance was rescinded by Staff Accounting Bulletin No. 109, "Written Loan Commitments Recorded at Fair Value Through

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 6—FAIR VALUE MEASUREMENTS (Continued)

Earnings" ("SAB 109"). Accordingly, with the adoption of SFAS No. 157 and SAB 109 on January 1, 2008, the day one gains and servicing value, adjusted by the loan funding probability, are included in the value of IRLCs.

The net change in fair value of the IRLCs and related forward delivery contracts for the three months ended March 31, 2008 and 2007 resulted in gains of \$14.8 million and losses of \$0.3 million, respectively, which have been recognized in the accompanying consolidated statements of operations. The significant change year over year is due principally to the inclusion of day one gains and the value of servicing the loan in 2008 associated with the adoption of SFAS No. 157 and SAB 109. The IRLCs are recorded in "Prepaid and other current assets" and/or "Accrued expenses and other current liabilities" in the accompanying consolidated balance sheets. At March 31, 2008, there was \$254.1 million of IRLCs notional value outstanding.

Effective January 1, 2008 Tree.com adopted SFAS No. 159 "The Fair Value Option for Financial Assets and Financial Liabilities Including an amendment of FASB Statement No. 115" ("SFAS No. 159"). SFAS No. 159 permits entities to choose to measure certain financial instruments at fair value with the objective of reducing both the complexity in the accounting for financial instruments and the volatility in earnings caused by measuring related assets and liabilities differently. Upon adoption, Tree.com elected to account for loans held for sale issued after January 1, 2008 at fair value. Electing the fair value option allows a better offset of the changes in fair values of the loans and the forward delivery contracts used to economically hedge them without the burden of complying with the requirements for hedge accounting under SFAS No. 133.

Tree.com did not elect the fair value option on loans held for sale of \$3.7 million originated prior to January 1, 2008. These loans are carried at the lower of cost or market value determined on an aggregate basis except for loans that are impaired, which are assessed on an individual basis. The fair value of impaired loans at March 31, 2008, measured based on significant unobservable inputs (Level 3) was \$2.9 million. The fair value of impaired loans is measured on a non-recurring basis and is based on management's best estimate of the market value of such loans and considers reprice bids received from the investors prior to repurchase, if applicable, or current bids in the secondary market for similar loans and represent management's best estimate of the market value of such loans.

During the three months ended March 31, 2008, the change in fair value of loans held for sale for which the fair value option has been elected was a loss of \$0.1 million and is included as a component of revenue in the accompanying consolidated statement of operations.

The following table presents the difference between the aggregate fair value and the aggregate unpaid principal balance of loans held for sale at March 31, 2008 for which the fair value option has been elected (in thousands):

	Aggregate Fair Value	Aggregate Unpaid Principal Balance	Difference
Loans held for sale	\$ 87,532	\$ 84,952	\$ 2,580

For the quarter ended March 31, 2008 and 2007, LendingTree Loans sold approximately 3,100 and 12,700 loans, respectively, with initial loan values of \$606.4 million and \$1.9 billion, respectively. From loans sold in those periods, LendingTree Loans has not experienced any repurchase and indemnification losses.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 7—INCOME TAXES

Tree.com calculates its interim income tax provision in accordance with Accounting Principles Board Opinion No. 28 and FASB Interpretation No. 18. At the end of each interim period, Tree.com makes its best estimate of the annual expected effective tax rate and applies that rate to its ordinary year-to-date earnings or loss. The tax or benefit related to significant, unusual, or extraordinary items that will be separately reported or reported net of their related tax effect are individually computed and recognized in the interim period in which those items occur. In addition, the effect of changes in enacted tax laws or rates, tax status, or judgment on the realizability of a beginning-of-the-year deferred tax asset in future years is recognized in the interim period in which the change occurs.

The computation of the annual expected effective tax rate at each interim period requires certain estimates and assumptions including, but not limited to, the expected operating income for the year, permanent and temporary differences, and the likelihood of recovering deferred tax assets generated in the current year. The accounting estimates used to compute the provision for income taxes may change as new events occur, more experience is acquired, additional information is obtained or Tree.com's tax environment changes. To the extent that the estimated annual effective tax rate changes during a quarter, the effect of the change on prior quarters is included in tax expense for the current quarter.

For the three months ended March 31, 2008, Tree.com recorded a tax provision of \$0.2 million despite a loss from operations, due principally to an increase in valuation allowance on deferred tax assets. For the three months ended March 31, 2007, Tree.com recorded a tax benefit of \$3.5 million on a pre-tax loss of \$8.6 million, which represents an effective tax rate of 41%. This tax benefit is higher than the federal statutory rate of 35% due principally to state taxes.

As of December 31, 2007 and March 31, 2008, Tree.com had unrecognized tax benefits of approximately \$4.4 million. Included in unrecognized tax benefits at March 31, 2008 is approximately \$3.6 million for tax positions included in IAC's consolidated tax return filings that will remain a liability of IAC after the spin-off. Tree.com recognizes interest and, if applicable, penalties related to unrecognized tax benefits in income tax expense. There were no material accruals for interest for the quarter ended March 31, 2008. At March 31, 2008, Tree.com has accrued \$1.5 million for the payment of interest. There are no material accruals for penalties.

By virtue of previously filed separate company and consolidated tax returns with IAC, Tree.com is routinely under audit by federal, state, local and foreign authorities in the area of income tax. These audits include questioning the timing and the amount of deductions and the allocation of income among various tax jurisdictions. Income taxes payable include amounts considered sufficient to pay assessments that may result from examination of prior year returns; however, the amount paid upon resolution of issues raised may differ from the amount provided. Differences between the reserves for tax contingencies and the amounts owed by Tree.com are recorded in the period they become known.

The Internal Revenue Service is currently examining the IAC consolidated tax returns for the years ended December 31, 2001 through 2003, which includes the operations of Tree.com from August 8, 2003, the date which Tree.com joined the IAC consolidated tax return. The statute of limitations for these years has been extended to December 31, 2008. Various IAC consolidated tax returns filed with state, local and foreign jurisdictions are currently under examination, the most significant of which are California, Florida, New York state and New York City, for various tax years after December 31, 2001. These examinations are expected to be completed by late 2008.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

**NOTE 7—INCOME TAXES (Continued)**

Tree.com believes that it is reasonably possible that its unrecognized tax benefits could decrease by approximately \$2.7 million within twelve months of the current reporting date due to the reversal of deductible temporary differences which will result in a corresponding increase in net deferred tax liabilities. An estimate of other changes in unrecognized tax benefits cannot be made, but are not expected to be significant.

**NOTE 8—CONTINGENCIES**

On November 24, 2003, IMX, Inc. ("IMX") filed suit against Tree.com alleging infringement of a patent held by IMX and seeking damages related to the alleged infringement. A trial was conducted in January 2006 and a verdict was returned finding infringement by Tree.com and awarding IMX \$5.8 million in damages. Tree.com established a reserve of \$5.8 million in its 2005 financial statements related to this claim. In January 2007, the court enhanced the damages award and rejected Tree.com's counterclaim. During 2006, Tree.com increased the reserve by \$6.3 million to \$12.1 million at December 31, 2006. During 2007, the court awarded IMX supplemental damages and pre-judgment and post-judgment interest. During 2007, Tree.com increased the reserve by \$0.8 million to \$12.8 million at December 31, 2007. During 2008, Tree.com increased the reserve by \$0.1 million to \$12.9 million at March 31, 2008. Tree.com has appealed this judgment to the U.S. Court of Appeals for the Federal Circuit. Tree.com intends to continue to contest this case through all available means. In connection with the appeal, Tree.com's parent, IAC, executed a guarantee of \$13.5 million in lieu of posting a bond. Before IAC completes the spin-off, Tree.com will be required to post a bond in a like amount.

HLC is party to various employment related lawsuits. During 2006, Tree.com established a reserve of \$0.4 million for certain of these actions. During 2007, an additional reserve of \$2.1 million was recorded. The balance of the related liability was \$2.5 million at March 31, 2008 and December 31, 2007, respectively.

In the ordinary course of business, Tree.com is a party to various lawsuits. Tree.com establishes reserves for specific legal matters when it determines that the likelihood of an unfavorable outcome is probable and the loss is reasonably estimable. Management has also identified certain other legal matters where it believes an unfavorable outcome is not probable and, therefore, no reserve is established. Although management currently believes that an unfavorable resolution of claims against Tree.com, including claims where an unfavorable outcome is reasonably possible, will not have a material impact on the liquidity, results of operations, or financial condition of Tree.com, these matters are subject to inherent uncertainties and management's view of these matters may change in the future. It is possible that an unfavorable outcome of one or more of these lawsuits could have a material impact on the liquidity, results of operations, or financial condition of Tree.com. Tree.com also evaluates other contingent matters, including tax contingencies, to assess the probability and estimated extent of potential loss. See Note 7 for discussion related to income tax contingencies.

**NOTE 9—RELATED PARTY TRANSACTIONS**

Tree.com's expenses include allocations from IAC of costs associated with IAC's accounting, treasury, legal, tax, corporate support, human resources and internal audit functions. These expenses were allocated based on the ratio of Tree.com's revenue as a percentage of IAC's total revenue. Allocated costs were \$0.2 million and \$0.3 million for the three months ended March 31, 2008 and 2007, respectively, and are included in "General and administrative expense" in the accompanying

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## NOTE 9—RELATED PARTY TRANSACTIONS (Continued)

consolidated statements of operations. It is not practicable to determine the amounts of these expenses that would have been incurred had Tree.com operated as an unaffiliated entity. In the opinion of management, the allocation method is reasonable.

An analysis of Tree.com's payables to IAC and subsidiaries is as follows (in thousands):

	<u>March 31, 2008</u>
Payables to IAC and subsidiaries at December 31, 2007	\$ (20,067)
Cash transfers related from IAC's centrally managed U.S. treasury function	(17,402)
Interest expense	(32)
Employee equity instruments and associated tax withholdings	330
Taxes (excludes tax withholdings associated with employee equity instruments)	73
Allocation of non-cash compensation expense	(471)
Administrative expenses and other	(4,668)
	<u>                    </u>
Payables to IAC and subsidiaries at March 31, 2008	\$ (42,237)
	<u>                    </u>

**Relationship Between IAC and Tree.com after the Spin-Off**

For purposes of governing certain of the ongoing relationships between Tree.com and IAC at and after the spin-off, and to provide for an orderly transition, Tree.com and IAC are expected to enter into a separation agreement, a tax sharing agreement, an employee matters agreement and a transition services agreement (the "Spin-Off Agreements"), among other agreements. See Tree.com's consolidated financial statements for the year ended December 31, 2007 for descriptions of the Spin-Off Agreements.

**PART II**

**INFORMATION NOT REQUIRED IN PROSPECTUS**

**Item 14. Other Expenses Of Issuance And Distribution**

The following is a statement of the expenses (all of which are estimated other than the SEC registration fee) to be incurred by the Registrant in connection with the distribution of the securities registered under this registration statement:

Item	Amount
SEC Registration Fee	\$ 9.61
Printing Fees and Expenses	100,000
Nasdaq Listing Fee	100,000
Legal Fees and Expenses	250,000
Accounting Fees and Expenses	20,000
Miscellaneous	—
<b>Total</b>	<b>\$ 520,009.61</b>

\* All fees are estimates except SEC registration fee and Nasdaq listing fee.

**Item 15. Indemnification Of Directors And Officers**

Section 145 of the DGCL provides that a corporation may indemnify directors and officers as well as other employees and individuals against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, in which such person is made a party by reason of the fact that the person is or was a director, officer, employee or agent of the corporation (other than an action by or in the right of the corporation—a "derivative action"), if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. A similar standard is applicable in the case of derivative actions, except that indemnification only extends to expenses (including attorneys' fees) incurred in connection with the defense or settlement of such action, and the statute requires court approval before there can be any indemnification where the person seeking indemnification has been found liable to the corporation. The statute provides that it is not exclusive of other indemnification that may be granted by a corporation's by-laws, disinterested director vote, stockholder vote, agreement or otherwise.

Our Amended and Restated Certificate of Incorporation provides that no director shall be liable to the Company or its stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent such exemption from liability or limitation on liability is not permitted under the DGCL, as now in effect or as amended. Currently, Section 102(b)(7) of the DGCL requires that liability be imposed for the following:

- any breach of the director's duty of loyalty to the Company or its stockholders;
- any act or omission not in good faith or which involved intentional misconduct or a knowing violation of law;
- unlawful payments of dividends or unlawful stock repurchases or redemptions as provided in Section 174 of the DGCL; and
- any transaction from which the director derived an improper personal benefit.

Our by-laws provide that, to the fullest extent authorized by the DGCL, as now in effect or as amended, we will indemnify any person who was or is a party or is threatened to be made a party to any action, suit or proceeding by reason of the fact that such person, or a person of whom he or she is

the legal representative, is or was a director or officer of the Company, or by reason of the fact such person, or a person of whom he or she is the legal representative is or was serving, at the Company's request, as a director, officer, or trustee of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans maintained or sponsored by the Company. To the extent authorized by the DGCL, the Company will indemnify such persons against all expenses, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such persons in connection with such service. Any amendment of these provisions will not reduce the indemnification obligations of the Company relating to actions taken before such amendment.

The Company intends to obtain policies that insure its directors and officers and those of its subsidiaries against certain liabilities they may incur in their capacity as directors and officers. Under these policies, the insurer, on behalf of the Company, may also pay amounts for which the Company has granted indemnification to the directors or officers.

#### **Item 16. Exhibits and Financial Statement Schedules**

- (a) See Exhibit Index.
- (b) See Schedule II—Valuation and Qualifying Accounts.

#### **Item 17. Undertakings**

The undersigned Registrant hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement to include any material information with respect to the plan of distribution not previously disclosed in this registration statement or any material change to such information in this registration statement.
- (2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (3) To remove from registration by means of a post-effective amendment any of the Securities being registered which remain unsold at the termination of the offering.
- (4) That, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.



## INDEX TO EXHIBITS

Exhibit	Description
2.1	Form of Separation and Distribution Agreement by and among HSN, Inc., Interval Leisure Group, Inc., Ticketmaster, Tree.com, Inc. and IAC/InterActiveCorp
3.1	Form of Amended and Restated Certificate of Incorporation of Tree.com, Inc.
3.2	Form of By-laws of Tree.com, Inc.
5.1	Opinion of the General Counsel of IAC/InterActiveCorp regarding the legality of the securities being issued
8.1	Opinion of Wachtell, Lipton, Rosen & Katz regarding tax matters
10.1	Form of Tax Sharing Agreement among HSN, Inc., Interval Leisure Group, Inc., Ticketmaster, Tree.com, Inc. and IAC/InterActiveCorp
10.2	Form of Transition Services Agreement among HSN, Inc., Interval Leisure Group, Inc., Ticketmaster, Tree.com, Inc. and IAC/InterActiveCorp
10.3	Form of Employee Matters Agreement among HSN, Inc., Interval Leisure Group, Inc., Ticketmaster, Tree.com, Inc. and IAC/InterActiveCorp
10.4	Spinco Agreement, dated as of May 13, 2008, between IAC/InterActiveCorp, Liberty Media Corporation, LMC Silver King, Inc., Liberty HSN II, Inc., LMC USA VIII, Inc., LMC USA IX, Inc., LMC USA XI, Inc., LMC USA XII, Inc., LMC USA XIII, Inc., LMC USA XIV, Inc., LMC USA XV, Inc., Liberty Tweety, Inc., BDTV Inc., BDTV II Inc., BDTV III Inc., BDTV IV Inc. and Barry Diller (filed as Exhibit 10.1 to IAC/InterActiveCorp's Current Report on Form 8-K (SEC File No. 0-20570) dated May 16, 2008 and incorporated herein by reference)
10.5	Employment Agreement between Robert L. Harris and LendingTree, LLC, dated as of June 30, 2008†
10.6	Employment Agreement between Douglas R. Lebda and IAC/InterActiveCorp, dated as of January 7, 2008†
10.7	Employment Agreement between Bret A. Violette and IAC/InterActiveCorp, dated as of April 11, 2007†
10.8	Amended and Restated Restricted Share Grant and Shareholders' Agreement, dated as of July 7, 2003, by and among Forest Merger Corp., LendingTree, Inc., InterActiveCorp and the Grantees named therein, as amended (filed as Exhibit 99.4 to Amendment No. 1 to IAC/InterActiveCorp's Registration Statement on Form S-4 (SEC File No. 333-105876) filed on July 10, 2003 and incorporated herein by reference)†
10.9	Correspondent Loan Purchase Agreement, dated as of April 26, 2004, between CitiMortgage, Inc. and Home Loan Center, Inc.
10.10	Loan Purchase Agreement, dated as of April 16, 2002, between Countrywide Home Loans, Inc. and Home Loan Center, Inc.
10.11	Tree.com, Inc. 2008 Stock and Annual Incentive Plan†
10.12	Warehousing Credit Agreement, dated as of November 26, 2007, by and among Home Loan Center, Inc. d/b/a LendingTree Loans, National City Bank and National City Bank in its capacity as Agent for the Banks (as defined therein)
10.13	Master Repurchase Agreement, dated as of January 25, 2008, by and among Countrywide Bank, FSB and Home Loan Center, Inc. (the "Master Repurchase Agreement")

- 10.14 Notice, dated June 25, 2008, issued by Countrywide Warehouse Lending, regarding certain amendments to the Master Repurchase Agreement
  - 10.15 Deferred Compensation Plan for Non-Employee Directors†
  - 21.1 Subsidiaries of Tree.com, Inc.
  - 23.1 Consent of Ernst & Young LLP
  - 23.2 Consent of the General Counsel of IAC/InterActiveCorp (included in Exhibit 5.1)
  - 23.3 Consent of Wachtell, Lipton, Rosen & Katz (included in Exhibit 8.1)
  - 99.1 Consent of Peter C. Horan to being named as a director
  - 99.2 Consent of Joseph Levin to being named as a director
  - 99.3 Consent of Lance Melber to being named as a director
  - 99.4 Consent of Steven Ozonian to being named as a director
  - 99.5 Letter to stockholders of IAC/InterActiveCorp
  - 99.6 Supplemental Quarterly Financial Data for the Year Ended December 31, 2007
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† Reflects management contracts and management and director compensatory plans

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FORM OF  
SEPARATION AND DISTRIBUTION AGREEMENT

by and among

IAC/INTERACTIVECORP,

HSN, INC.,

INTERVAL LEISURE GROUP, INC.,

TICKETMASTER

and

TREE.COM, INC.

DATED AS OF [     ], 2008

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## SEPARATION AND DISTRIBUTION AGREEMENT

This SEPARATION AND DISTRIBUTION AGREEMENT, dated as of [ ], 2008, is entered into by and among IAC/InterActiveCorp, a Delaware corporation (“IAC”), HSN, Inc., a Delaware corporation and wholly owned subsidiary of IAC (“HSN Spinco”), Interval Leisure Group, Inc., a Delaware corporation and wholly owned subsidiary of IAC (“Interval Spinco”), Ticketmaster, a Delaware corporation and wholly owned subsidiary of IAC

("TM Spinco"), and Tree.com, Inc., a Delaware corporation and wholly owned subsidiary of IAC ("Tree Spinco"; together with TM Spinco, Interval Spinco and HSN Spinco, the "Spinco's"; the Spinco's and IAC, collectively, the "Separate-cos" or "Parties").

#### RECITALS:

WHEREAS, IAC, acting through its direct and indirect Subsidiaries, currently conducts a number of businesses, including (i) the Ticketing Business (as defined herein), (ii) the Vacations Business (as defined herein), (iii) the Retailing Business (as defined herein), (iv) the Lending and Real Estate Business (as defined herein) (together with the Ticketing Business, the Vacations Business and the Retailing Business, the "Spun Businesses") and (v) the Remaining Business (as defined herein);

WHEREAS, the Board of Directors of IAC (the "IAC Board") has determined that it is appropriate, desirable and in the best interests of IAC and its stockholders to separate IAC into five publicly-traded companies (the "Separation"): (i) TM Spinco, which following the Separation will own and conduct, directly or indirectly, the Ticketing Business, (ii) Interval Spinco, which following the Separation will own and conduct, directly or indirectly, the Vacations Business, (iii) HSN Spinco, which following the Separation will own and conduct, directly or indirectly, the Retailing Business, (iv) Tree Spinco, which following the Separation will own and conduct, directly or indirectly, the Lending and Real Estate Business, and (v) IAC, which following the Separation will own and conduct, directly or indirectly, the Remaining Business;

WHEREAS, following the merger on \_\_\_\_\_, 2008 of a wholly owned subsidiary of IAC with and into IAC, the outstanding shares of capital stock of IAC consist solely of common stock, par value \$0.001 per share, of IAC ("IAC Common Stock") and Class B common stock, par value \$0.001 per share, of IAC ("IAC Class B Common Stock");

WHEREAS, in order to effect the Separation, the IAC Board has determined that it is appropriate, desirable and in the best interests of IAC and its stockholders: (i) for IAC and its Subsidiaries to enter into a series of transactions as set forth in the Transactions Memorandum dated of even date herewith (the "Transactions Memo") as a result of which one or more members of each Group (as defined herein) will, collectively, own all of such Group's Corresponding Assets (as defined herein) and assume (or retain) all of such Group's Corresponding Liabilities (as defined herein); and, thereafter (ii) for IAC to distribute to the holders of IAC Common Stock and the holders of IAC Class B Common Stock (in each case without consideration being paid by such stockholders), on a pro rata basis, all of the issued and

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outstanding shares of Spinco Common Stock (as defined herein) of each Spinco;

WHEREAS, each of the Separate-cos has determined that it is necessary and desirable, on or prior to the Effective Time (as defined herein), to allocate and transfer to the applicable Group those Assets, and to allocate and assign to the applicable Group responsibility for those Liabilities, in respect of the activities of the Corresponding Businesses (as defined herein) of such Group;

WHEREAS, it is the intention of the Parties that each of the Distributions (as defined herein) qualify as a transaction that is generally tax free for United States federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Internal Revenue Code of 1986, as amended (the "Code");

WHEREAS, in connection with the Distributions, each of HSN Spinco and/or its Subsidiaries, Interval Spinco and/or its Subsidiaries and TM Spinco and/or its Subsidiaries will, subject to the terms and provisions of this Agreement, enter into separate credit facilities and/or issue new debt securities, all or a portion of the cash proceeds of borrowings under which shall be distributed to IAC;

WHEREAS, (a) IAC has entered into an agreement with certain holders of its 7% Senior Notes due 2013 (the "IAC Notes") providing for, among other things, (i) IAC to exchange (the "Exchange") new 9.5% Senior Notes due 2016 of Interval Acquisition Corp. (as defined herein) that it will receive from Interval Acquisition Corp. as set forth in the Transactions Memorandum (the "Interval Senior Notes") and (ii) the simultaneous closing of the Exchange and the cash tender offer being made by IAC for any and all of the outstanding IAC Notes (the "IAC Notes Tender Offer") and (b) it is intended that the issuance of the Interval Senior Notes to IAC and the Exchange, together with the IAC Notes Tender Offer, are in connection with the Interval Distribution and are intended to give rise to a succession event (with Interval as the sole successor to IAC) for credit derivatives purposes; and

WHEREAS, the Parties wish to set forth in this Agreement the terms on which, and the conditions subject to which, they intend to implement the measures described above.

NOW THEREFORE, in consideration of the mutual agreements, covenants and other provisions set forth in this Agreement, the Parties hereby agree as follows:

#### ARTICLE I INTERPRETATION

1.01. Definitions. The capitalized words and expressions and variations thereof used in this Agreement or in its schedules, unless a clearly inconsistent meaning is required under the context, shall have the meanings set forth below:

"2008 Internal Control Audit and Management Assessments" has the meaning set forth in Section 11.01(b).

"AAA" has the meaning set forth in Section 9.03.

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"Accounts Receivable" means in respect of any Person, (a) all trade accounts and notes receivable and other rights to payment from customers and all security for such accounts or rights to payment, including all trade accounts receivable representing amounts receivable in respect of goods shipped or products sold or otherwise disposed of or services rendered to customers, (b) all other accounts and notes receivable and all security for such accounts or notes, and (c) any claim, remedy or other right relating to any of the foregoing.

“Action” means any demand, action, suit, countersuit, arbitration, inquiry, proceeding or investigation by any Person or any Governmental Authority or before any Governmental Authority or any arbitration or mediation tribunal.

“Affiliate” of any Person means any other Person that, directly or indirectly, controls, is controlled by, or is under common control with such first Person as of the date on which or at any time during the period for when such determination is being made. For purposes of this definition, “Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or other interests, by contract or otherwise, and the terms “Controlling” and “Controlled” have meanings correlative to the foregoing.

“Agent” has the meaning set forth in Section 5.02(b).

“Agreement” means this Separation and Distribution Agreement, including all of the Schedules hereto.

“Ancillary Agreements” has the meaning set forth in Section 2.13.

“Applicable Law” means any applicable law, statute, rule or regulation of any Governmental Authority or any outstanding order, judgment, injunction, ruling or decree by any Governmental Authority.

“Appurtenances” means, in respect of any Land, all privileges, rights, easements, servitudes, hereditaments and appurtenances and similar interests belonging to or for the benefit of such Land, including all easements and servitudes appurtenant to and for the benefit of any Land (a “Dominant Parcel”) for, and as the primary means of, access between, the Dominant Parcel and a public way, or for any other use upon which lawful use of the Dominant Parcel for the purposes for which it is presently being used is dependent, and all rights existing in and to any streets, alleys, passages and other rights-of-way included therein or adjacent thereto.

“Asset-Related Claims” means, in respect of any Asset, all claims of the owner against Third Parties relating to such Asset, whether choate or inchoate, known or unknown, absolute or contingent, disclosed or non-disclosed.

“Assets” means assets, properties and rights (including goodwill), wherever located (including in the possession of owners or Third Parties or elsewhere), whether real, personal or mixed, tangible or intangible, movable or immovable, in each case whether or not recorded or reflected or required to be recorded or reflected on the books and records or financial statements of a Person, including the following:

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- (a) Real Property;
- (b) Tangible Personal Property;
- (c) Inventories;
- (d) Accounts Receivable;
- (e) Contractual Assets;
- (f) Governmental Authorizations;
- (g) Business Records;
- (h) Intangible Property Rights;
- (i) Insurance Benefits;
- (j) Asset-Related Claims; and
- (k) Deposit Rights.

“Authorized Auditor” has the meaning set forth in Section 11.01(c)(i).

“Authorizing Spinco” has the meaning set forth in Section 11.01(c)(i).

“Business Concern” means any corporation, company, limited liability company, partnership, joint venture, trust, unincorporated association or any other form of association.

“Business Day” means any day excluding (a) Saturday, Sunday and any other day which, in New York City is a legal holiday or (b) a day on which banks are authorized by Applicable Law to close in New York City.

“Business Records” means, in respect of any Person, all data and Records relating to such Person, including client and customer lists and Records, referral sources, research and development reports and Records, cost information, sales and pricing data, customer prospect lists, customer and vendor data, production reports and Records, service and warranty Records, equipment logs, operating guides and manuals, financial and accounting Records, personnel Records (subject to Applicable Law), creative materials, advertising materials, promotional materials, studies, reports, correspondence and other similar documents and records.

“Claim Notice” has the meaning set forth in Section 6.04(b).

“Claimant Party” has the meaning set forth in Section 9.02(a).

“Code” has the meaning set forth in the recitals hereto.

“Confidential Information” has the meaning set forth in Section 8.07(a).

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“Consent” means any approval, consent, ratification, waiver or other authorization.

“Contract” means any contract, agreement, lease, purchase and/or commitment, license, consensual obligation, promise or undertaking (whether written or oral and whether express or implied) that is legally binding on any Person or any part of its property under Applicable Law, including all claims or rights against any Person, choses in action and similar rights, whether accrued or contingent with respect to any such contract, agreement, lease, purchase and/or commitment, license, consensual obligation, promise or undertaking, but excluding this Agreement and any Ancillary Agreement save as otherwise expressly provided in this Agreement or in any Ancillary Agreement.

“Contractual Asset” means, in respect of any Person, any Contract of, or relating to, such Person, any outstanding offer or solicitation made by, or to, such Person to enter into any Contract, and any promise or undertaking made by any other Person to such Person, whether or not legally binding.

“Corresponding Annual Report” has the meaning set forth in Section 11.01(d).

“Corresponding Assets” (a) with respect to HSN Spinco, any HSN Entity or the HSN Group, means the HSN Assets, (b) with respect to Interval Spinco, any Interval Entity or the Interval Group, means the Interval Assets, (c) with respect to TM Spinco, any TM Entity or the TM Group, means the TM Assets, (d) with respect to Tree Spinco, any Tree Entity or the Tree Group, means the Tree Assets and (e) with respect to IAC or the IAC Group, means the Retained Assets.

“Corresponding Business” (a) with respect to HSN Spinco, any HSN Entity or the HSN Group, means the Retailing Business, (b) with respect to Interval Spinco, any Interval Entity or the Interval Group, means the Vacations Business, (c) with respect to TM Spinco, any TM Entity or the TM Group, means the Ticketing Business, (d) with respect to Tree Spinco, any Tree Entity or the Tree Group, means the Lending and Real Estate Business and (e) with respect to IAC or the IAC Group, means the Remaining Business.

“Corresponding Distribution Ratio” (i) with respect to HSN Spinco, means the HSN Distribution Ratio, (ii) with respect to Interval Spinco, means the Interval Distribution Ratio, (iii) with respect to TM Spinco, means the TM Distribution Ratio and (iv) with respect to Tree Spinco, means the Tree Distribution Ratio.

“Corresponding Escrow Shares” has the meaning set forth in Section 4.03.

“Corresponding Group” (a) with respect to the Retailing Business, HSN Spinco or any HSN Entity, means the HSN Group, (b) with respect to the Vacations Business, Interval Spinco or any Interval Entity, means the Interval Group, (c) with respect to the Ticketing Business, TM Spinco or any TM Entity, means the TM Group, (d) with respect to the Lending and Real Estate Business, Tree Spinco or any Tree Entity, means the Tree Group and (e) with respect to the Remaining Business, IAC or any Remaining IAC Entity, means the IAC Group.

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“Corresponding Group Balance Sheet” (a) with respect to the Retailing Business, HSN Spinco, any HSN Entity or the HSN Group, means the HSN Group Balance Sheet, (b) with respect to the Vacations Business, Interval Spinco, any Interval Entity or the Interval Group, means the Interval Group Balance Sheet, (c) with respect to the Ticketing Business, TM Spinco, any TM Entity or the TM Group, means the TM Group Balance Sheet, and (d) with respect to the Lending and Real Estate Business, Tree Spinco, any Tree Entity or the Tree Group, means the Tree Group Balance Sheet.

“Corresponding Liabilities” (a) with respect to HSN Spinco, any HSN Entity or the HSN Group, means the HSN Liabilities, (b) with respect to Interval Spinco, any Interval Entity or the Interval Group, means the Interval Liabilities, (c) with respect to TM Spinco, any TM Entity or the TM Group, means the TM Liabilities, (d) with respect to Tree Spinco, any Tree Entity or the Tree Group, means the Tree Liabilities and (e) with respect to IAC or the IAC Group, means the Retained Liabilities.

“Corresponding Opening Balance Sheet” (a) with respect to the Retailing Business, HSN Spinco, any HSN Entity or the HSN Group, means the HSN Opening Balance Sheet, (b) with respect to the Vacations Business, Interval Spinco, any Interval Entity or the Interval Group, means the Interval Opening Balance Sheet, (c) with respect to the Ticketing Business, TM Spinco, any TM Entity or the TM Group, means the TM Opening Balance Sheet and (d) with respect to the Lending and Real Estate Business, Tree Spinco, any Tree Entity or the Tree Group, means the Tree Opening Balance Sheet.

“Corresponding Other Separate-cos Indemnified Parties” has the meaning set forth in Section 6.02.

“Corresponding Separate-co” (a) with respect to the Retailing Business, any HSN Entity or the HSN Group, means HSN Spinco, (b) with respect to the Vacations Business, any Interval Entity or the Interval Group, means Interval Spinco, (c) with respect to the Ticketing Business, any TM Entity or the TM Group, means TM Spinco, (d) with respect to the Lending and Real Estate Business, any Tree Entity or the Tree Group, means Tree Spinco and (e) with respect to the Remaining Business, any Remaining IAC Entity or the IAC Group, means IAC.

“Corresponding Spinco” (a) with respect to the Retailing Business, any HSN Entity or the HSN Group, means HSN Spinco, (b) with respect to the Vacations Business, any Interval Entity or the Interval Group, means Interval Spinco, (c) with respect to the Ticketing Business, any TM Entity or the TM Group, means TM Spinco and (d) with respect to the Lending and Real Estate Business, any Tree Entity or the Tree Group, means Tree Spinco.

“Deferred Beneficiary” has the meaning set forth in Section 3.01(b).

“Deferred Corresponding Asset” has the meaning set forth in Section 3.01(a).

“Deferred Excluded Asset” has the meaning set forth in Section 3.01(a).

“Deferred Spun Asset” has the meaning set forth in Section 3.01(a).

“Deferred Transactions” has the meaning set forth in Section 10.01(a)(ii).

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“Deferred Transfer Asset” has the meaning set forth in Section 3.01(a).

“Deposit Rights” means rights relating to deposits and prepaid expenses, claims for refunds and rights of set-off in respect thereof.

“DGCL” means the General Corporation Law of the State of Delaware.

“Disclosing Party” has the meaning set forth in Section 8.08.

“Dispute” has the meaning set forth in Section 9.02(a).

“Dispute Notice” has the meaning set forth in Section 9.02(a).

“Dispute Parties” has the meaning set forth in Section 9.02(a).

“Distribution Date” means the HSN Distribution Date, the Interval Distribution Date, the TM Distribution Date or the Tree Distribution Date, as applicable.

“Distribution Record Date” means the HSN Distribution Record Date, the Interval Distribution Record Date, the TM Distribution Record Date or the Tree Distribution Record Date, as applicable

“Distributions” means the HSN Distribution, the Interval Distribution, the TM Distribution and the Tree Distribution, and each of them a “Distribution.”

“Effective Time” means (a) 9:00 a.m., New York City time, on the earliest to occur of one or more of the HSN Distribution Date, the Interval Distribution Date, the TM Distribution Date and the Tree Distribution Date if IAC determines to effect the applicable Distribution(s) prior to the opening of trading on NASDAQ or (b) otherwise, 11:59 p.m., New York City time, on such earliest date to occur.

“EHS Liabilities” means any Liability arising from or under any Environmental Law or Occupational Health and Safety Law.

“Employee Matters Agreement” means the Employee Matters Agreement among the Parties to be dated as of even date herewith.

“Encumbrance” means, with respect to any asset, mortgages, liens, hypothecations, pledges, charges, security interests or encumbrances of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under Applicable Law.

“Environmental Law” means any Applicable Law from any Governmental Authority (a) relating to the protection of the environment (including air, water, soil and natural resources) or (b) the use, storage, handling, release or disposal of Hazardous Substances.

“Escrow Agent” has the meaning set forth in Section 4.03(a).

“Escrow Agreement” has the meaning set forth in Section 4.03(a).

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“Exchange Act” means the United States Securities Exchange Act of 1934, as amended.

“Excluded Assets” has the meaning set forth in Section 2.09(a).

“GAAP” has the meaning set forth in Section 2.04(d).

“Governmental Authority” means any court, arbitration panel, governmental or regulatory authority, agency, stock exchange, commission or body.

“Governmental Authorization” means any Consent, license, certificate, franchise, registration or permit issued, granted, given or otherwise made available by, or under the authority of, any Governmental Authority or pursuant to any Applicable Law.

“Ground Lease” means any long-term lease (including any emphyteotic lease) of Land in which most of the rights and benefits comprising ownership of the Land and the Improvements thereon or to be constructed thereon, if any, and the Appurtenances thereto for the benefit thereof, are transferred to the tenant for the term thereof.

“Ground Lease Property” means, in respect of any Person, any Land, Improvement or Appurtenance of such Person that is subject to a Ground Lease.

“Group” means the IAC Group, the HSN Group, the Interval Group, the TM Group or the Tree Group, as the context requires.

“Guaranteed Entities” has the meaning set forth in Section 4.02(c).

“Guaranteed Group” has the meaning set forth in Section 4.02(c).

“Guaranteed Spinco” has the meaning set forth in Section 4.02(c).

“Guaranteeing Group” has the meaning set forth in Section 4.02(c).

“Guaranteeing Separate-co” has the meaning set forth in Section 4.02(c).

“Hazardous Substance” means any substance to the extent presently listed, defined, designated or classified as hazardous, toxic or radioactive under any applicable Environmental Law, including petroleum and any derivative or by-products thereof.

“HSN Assets” has the meaning set forth in Section 2.06.

“HSN Claims” has the meaning set forth in Section 6.01(c).

“HSN Common Stock” means the common stock, par value \$0.01 per share, of HSN Spinco.

“HSN Distribution” means the distribution on the HSN Distribution Date, to holders of record of shares of IAC Common Stock and IAC Class B Common Stock as of the HSN Distribution Record Date, of the HSN Common Stock owned by IAC on the basis of a

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fraction of a share of HSN Common Stock equal to the HSN Distribution Ratio for every one share of IAC Common Stock or IAC Class B Common Stock.

“HSN Distribution Date” means the date on which IAC distributes all of the issued and outstanding shares of HSN Common Stock to the holders of IAC Common Stock and IAC Class B Common Stock.

“HSN Distribution Ratio” means 1/5, subject to adjustment pursuant to Section 5.02(a).

“HSN Distribution Record Date” means such date as may be determined by the IAC Board as the record date for the HSN Distribution.

“HSN Effective Time Cash Balance” has the meaning set forth in Section 4.04(c).

“HSN Entities” means those Business Concerns forming part of the IAC Group which are identified on Schedule 2.06(b) and which on and after the Effective Time form part of the HSN Group.

“HSN Group” means HSN Spinco, the HSN Entities and each other Person (other than any member of any other Group) that is a direct or indirect Subsidiary of HSN Spinco immediately after the Effective Time, and each Person that becomes a Subsidiary of HSN Spinco after the Effective Time.

“HSN Group Balance Sheet” has the meaning set forth in Section 2.06(c).

“HSN Liabilities” has the meaning set forth in Section 2.10.

“HSN Opening Balance Sheet” has the meaning set forth in Section 2.06(e).

“HSN Releasors” has the meaning set forth in Section 6.01(c).

“HSN Spinco” has the meaning set forth in the preamble hereto.

“HSN Target Cash Balance” has the meaning set forth in Section 4.04(c).

“IAC” has the meaning set forth in the preamble hereto.

“IAC Auditor” has the meaning set forth in Section 11.01(a).

“IAC Board” has the meaning set forth in the recitals hereto.

“IAC Claims” has the meaning set forth in Section 6.01(e).

“IAC Class B Common Stock” has the meaning set forth in the recitals hereto.

“IAC Common Stock” has the meaning set forth in the recitals hereto.

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“IAC Group” means IAC, its Subsidiaries (subject to Section 1.04(b), other than any member of any Spinco Group) and their respective domestic and international businesses, assets and liabilities.

“IAC Notes” has the meaning set forth in the recitals hereto.

“IAC Record Date Share Number” with respect to any Distribution means the aggregate number of shares of IAC Common Stock and IAC Class B Common Stock outstanding on the applicable Distribution Record Date.

“IAC Releasors” has the meaning set forth in Section 6.01(e).

“Improvements” means, in respect of any Land, all buildings, structures, plants, fixtures and improvements located on such Land, including those under construction.

“Indemnified Party” has the meaning set forth in Section 6.04(a).

“Indemnifying Party” has the meaning set forth in Section 6.04(b).

“Information” means any information, whether or not patentable or copyrightable, in written, oral, electronic or other tangible or intangible forms, stored in any medium, including studies, reports, test procedures, research, records, books, contracts, instruments, surveys, discoveries, ideas, concepts, know-how, techniques, manufacturing techniques, manufacturing variables, designs, specifications, drawings, blueprints, diagrams, models, prototypes, samples, products, product plans, flow charts, data, computer data, disks, diskettes, tapes, computer programs or other software, marketing plans, customer information, customer services, supplier information, communications by or to attorneys (including attorney-client privileged communications), memos and other materials prepared by attorneys or under their direction (including attorney work product), and other technical, financial, employee or business information or data.

“Insurance Benefits” means, in respect of any Asset or Liability, all insurance benefits, including rights to Insurance Proceeds, arising from or relating to such Asset or Liability.

“Insurance Proceeds” means those monies (in each case net of any costs or expenses incurred in the collection thereof and net of any applicable premium adjustments (including reserves and retrospectively rated premium adjustments)):

- (a) received by an insured from an insurance carrier; or
- (b) paid by an insurance carrier on behalf of the insured.

“Intangible Property Rights” means, in respect of any Person, all intangible rights and property of such Person, including IT Assets, going concern value and goodwill.

“Intercompany Accounts” means all balances related to indebtedness, including any intercompany indebtedness, loan, guaranty, receivable, payable or other account between a member of any Group, on the one hand, and a member of any other Group, on the other hand.

“Interval Acquisition Corp.” means Interval Acquisition Corp., a Delaware corporation and wholly owned subsidiary of IAC that, at the time of the Interval Distribution, will be a wholly owned subsidiary of Interval Spinco. “Interval Assets” has the meaning set forth in Section 2.05.

“Interval Claims” has the meaning set forth in Section 6.01(b).

“Interval Common Stock” means the common stock, par value \$0.01 per share, of Interval Spinco.

“Interval Distribution” means the distribution on the Interval Distribution Date, to holders of record of shares of IAC Common Stock and IAC Class B Common Stock as of the Interval Distribution Record Date, of the Interval Common Stock owned by IAC on the basis of a fraction of a share of Interval Common Stock equal to the Interval Distribution Ratio for every one share of IAC Common Stock or IAC Class B Common Stock.

“Interval Distribution Date” means the date on which IAC distributes all of the issued and outstanding shares of Interval Common Stock to the holders of IAC Common Stock and IAC Class B Common Stock.

“Interval Distribution Ratio” means 1/5, subject to adjustment pursuant to Section 5.02(a).

“Interval Distribution Record Date” means such date as may be determined by the IAC Board as the record date for the Interval Distribution.

“Interval Effective Time Cash Balance” has the meaning set forth in Section 4.04(b).

“Interval Entities” means those Business Concerns forming part of the IAC Group which are identified on Schedule 2.05(b) and which on and after the Effective Time form part of the Interval Group.

“Interval Group” means Interval Spinco, the Interval Entities and each other Person (other than any member of any other Group) that is a direct or indirect Subsidiary of Interval Spinco immediately after the Effective Time, and each Person that becomes a Subsidiary of Interval Spinco after the Effective Time.

“Interval Group Balance Sheet” has the meaning set forth in Section 2.05(c).

“Interval Liabilities” has the meaning set forth in Section 2.10.

“Interval Opening Balance Sheet” has the meaning set forth in Section 2.05(e).

“Interval Releasers” has the meaning set forth in Section 6.01(b).

“Interval Spinco” has the meaning set forth in the preamble hereto.

“Interval Target Cash Balance” has the meaning set forth in Section 4.04(b).

“Inventories” means, in respect of any Person, all inventories of such Person wherever located, including all finished goods, (whether or not held at any location or facility of such Person or in transit to or from such Person), work in process, raw materials, spare parts and all other materials and supplies to be used or consumed by the Person in production of finished goods.

“IT Assets” means computers, computer software, firmware, middleware, servers, workstations, routers, hubs, switches, data communications lines, all other information technology equipments and all associated documentation.

“Land” means, in respect of any Person, all parcels and tracts of land in which the Person has an ownership interest.

“Lending and Real Estate Business” means (a) the businesses and operations of Tree Spinco and its subsidiaries described in the Information Statement included as an exhibit to Tree Spinco’s Registration Statement, (b) any other business conducted primarily through the use of the Tree Assets prior to the Effective Time and (c) the businesses and operations of Business Concerns acquired or established by or for Tree Spinco or any of its Subsidiaries after the date of this Agreement.

“Liberty Spinco Agreement” means that certain Spinco Agreement, dated as of May 13, 2008, among IAC, Barry Diller, Liberty Media Corporation and certain subsidiaries of Liberty Media Corporation that hold IAC Common Stock and/or IAC Class B Common Stock.

“Liberty Spinco Assumption Agreement” means an agreement substantially in the form of Exhibit 5 to the Liberty Spinco Agreement.

“Liberty Registration Rights Agreement” means an agreement substantially in the form of Exhibit 4 to the Liberty Spinco Agreement.

“Liability” means, with respect to any Person, any and all losses, claims, charges, debts, demands, actions, causes of action, suits, damages, obligations, payments, costs and expenses, sums of money, accounts, reckonings, bonds, specialties, indemnities and similar obligations, exoneration covenants, contracts, controversies, agreements, promises, doings, omissions, variances, guarantees, make whole agreements and similar obligations, and other liabilities and requirements, including all contractual obligations, whether absolute or contingent, matured or unmatured, liquidated or unliquidated, accrued or unaccrued, known or unknown, joint or several, whenever arising, and including those arising under any Applicable Law, Action, threatened or contemplated Action (including the costs and expenses of demands, assessments, judgments, settlements and compromises relating thereto and attorneys’ fees and any and all costs and expenses, whatsoever reasonably incurred in investigating, preparing or defending against any such Actions or threatened or contemplated Actions) or Order of any

Governmental Authority or any award of any arbitrator or mediator of any kind, and those arising under any contract, commitment or undertaking, in each case, whether or not recorded or reflected or otherwise disclosed or required to be recorded or reflected or otherwise disclosed, on the books and records or financial statements of any Person, including any Specified Financial Liability, EHS Liability or Liability for Taxes.

“NASDAQ” means the Nasdaq Stock Market.

“New IAC Integrated Warrant” has the meaning set forth in Section 5.05(a)(i).

“Non-IAC Indemnified Parties” has the meaning set forth in Section 6.03.

“Non-IAC Parties” has the meaning set forth in Section 6.01(e).

“Non-Interval Parties” has the meaning set forth in Section 6.01(b).

“Non-HSN Parties” has the meaning set forth in Section 6.01(c).

“Non-Tree Parties” has the meaning set forth in Section 6.01(d).

“Non-TM Parties” has the meaning set forth in Section 6.01(a).

“Notice Period” has the meaning set forth in Section 6.04(b).

“Occupational Health and Safety Law” means any Applicable Law designed to provide safe and healthful working conditions and to reduce occupational safety and health hazards, and any program, whether governmental or private (such as those promulgated or sponsored by industry associations and insurance companies), designed to provide safe and healthful working conditions.

“Old IAC Integrated Warrant” means the outstanding warrant to purchase shares of IAC Common Stock identified on Schedule 1.01(a).

“Order” means any order, injunction, judgment, decree, ruling, assessment or arbitration award of any Governmental Authority or arbitrator.

“Ordinary Course of Business” means any action taken by a Person that is in the ordinary course of the normal, day-to-day operations of such Person and is consistent with the past practices of such Person.

“Parties” has the meaning set forth in the preamble hereto.

“Person” means any individual, Business Concern or Governmental Authority.

“Post-Record Date IAC Shares” has the meaning set forth in Section 5.02(a)

“Potential Contributor” has the meaning set forth in Section 6.06(a).

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“Prime Rate” means the rate which JPMorgan Chase & Co. (or any successor thereto or other major money center commercial bank agreed to by the Parties hereto) announces from time to time as its prime lending rate, as in effect from time to time.

“Prospectus” with respect to a Registration Statement means the prospectus forming a part of such Registration Statement, as the same may be amended or supplemented from time to time. A Prospectus may, but need not, be a joint prospectus of all of the Spinco.

“Providing Party” has the meaning set forth in Section 8.08.

“Real Property” means any Land and Improvements and all Appurtenances thereto and any Ground Lease Property.

“Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

“Registration Statement” means, for each Spinco, the Registration Statement on Form S-1 first filed by such Spinco with the SEC on August [ ], 2008 (together with all amendments and supplements thereto) in connection with the registration under the Securities Act of such Spinco’s Spinco Common Stock.

“Regulation S-K” means Regulation S-K of the General Rules and Regulations promulgated by the SEC pursuant to the Securities Act.

“Relevant Time” means (a) as between any two Spinco, on the date of the later Distribution Date to occur with respect to such Spinco if such Distribution Dates are not the same date or, otherwise, on such Distribution Date and (b) as between IAC and any Spinco, on the Distribution Date with respect to such Spinco, in either such case (i) 9:00 a.m., New York City time, if IAC determines to effect the applicable Distribution(s) prior to the opening of trading on NASDAQ or (b) otherwise, 11:59 p.m., New York City time, on such earliest date to occur.

“Remaining Business” means all IAC Businesses other than the Spun Businesses.

“Remaining IAC Entity” means any Business Concern that is a member of the IAC Group on and after the Effective Time.

“Representatives” means, with respect to any Person, any of such Person’s directors, officers, employees, agents, consultants, advisors, accountants or attorneys.

“Requesting Party” has the meaning set forth in Section 8.01(a).

“Response” has the meaning set forth in Section 9.02(a).

“Responding Parties” has the meaning set forth in Section 9.02(a).

“Responsible Group” has the meaning set forth in Section 3.02(b).

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“Responsible Separate-co” has the meaning set forth in Section 3.02.

“Retailing Business” means (a) the businesses and operations of HSN Spinco and its Subsidiaries as described in the Prospectus forming a part of HSN Spinco’s Registration Statement, (b) any other business conducted primarily through the use of the HSN Assets prior to the Effective Time and (c) the businesses and operations of Business Concerns acquired or established by or for HSN Spinco or any of its Subsidiaries after the date of this Agreement.

“Retained Liabilities” has the meaning set forth in Section 2.10.

“Retaining Person” has the meaning set forth in Section 3.01(b).

“SEC” means the Securities and Exchange Commission.

“Securities Act” means the United States Securities Act of 1933, as amended.

“Senior Party Representatives” has the meaning set forth in Section 9.02(a).

“Separate-cos” has the meaning set forth in the preamble hereto.

“Separation” has the meaning set forth in the recitals hereto.

“Separation Transactions” means the transactions to effect the Separation as described in the Transactions Memo and, in the singular, means any one of them.

“Shared Liability” of a Spinco means any Liability from, relating to, arising out of, or derivative of any matter, claim or litigation, whether actual or potential, associated with any securities law litigation relating to any public disclosure (or absence of public disclosure) with respect to such Spinco’s Spun Business or the Spun Entities in such Spinco’s Corresponding Group made by IAC prior to the Effective Time, including the fees and expenses of outside counsel retained by IAC in connection with the defense and/or settlement of any such matter. For purposes of this definition, the phrase “securities law litigation” shall include claims alleging any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact in alleged violation of the Securities Act, the Exchange Act or any similar state law and any claims premised on, related to or derivative of such alleged statements, omissions or violations, whether payable to any current, past or future holders of IAC securities or any Spinco securities, to any of the co-defendants in such action or to any Governmental Authority. Notwithstanding anything in Section 6.06 to the contrary, the amount of any Shared Liability shall be net of any insurance proceeds actually recovered by or on behalf of any member of any Group.

“Specified Financial Liabilities” means, in respect of any Person, all liabilities, obligations, contingencies, instruments and other Liabilities of a financial nature with Third Parties of, or relating to, such Person, including any of the following:

- (a) foreign exchange contracts;
- (b) letters of credit;

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- (c) guarantees of Third Party loans;
  - (d) surety bonds (excluding surety for workers’ compensation self-insurance);
  - (e) interest support agreements on Third Party loans;
  - (f) performance bonds or guarantees issued by Third Parties;
  - (g) swaps or other derivatives contracts;
  - (h) recourse arrangements on the sale of receivables or notes; and
  - (i) indemnities for damages for any breach of, or any inaccuracy in, any representation or warranty or any breach of, or failure to perform or comply with, any covenant, undertaking or obligation.

“Spinco” has the meaning set forth in the preamble hereto.

“Spinco Auditor” has the meaning set forth in Section 11.01(a).

“Spinco Common Stock” means the HSN Common Stock, the Interval Common Stock, the TM Common Stock and/or the Tree Common Stock, as applicable.

“Spinco Common Stock Escrow Account” has the meaning set forth in Section 4.03.

“Spinco Group” means any of the HSN Group, the Interval Group, the TM Group and the Tree Group.

“Spun Businesses” has the meaning set forth in the recitals hereto.

“Spun Assets” means the HSN Assets, the Interval Assets, the TM Assets and the Tree Assets.

“Spun Entities” means the HSN Entities, the Interval Entities, the TM Entities and the Tree Entities.

“Spun Liabilities” means the HSN Liabilities, the Interval Liabilities, the TM Liabilities and the Tree Liabilities.

“Subsidiary” of any Person means any corporation, partnership, limited liability entity, joint venture or other organization, whether incorporated or unincorporated, of which a majority of the total voting power of capital stock or other interests entitled (without the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof, is at the time owned or controlled, directly or indirectly, by such Person.

“Tangible Personal Property” means, in respect of any Person, all machinery, equipment, tools, furniture, office equipment, supplies, materials, vehicles and other items of

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tangible personal or movable property (other than Inventories and IT Assets) of every kind and wherever located that are owned or leased by the Person, together with any express or implied warranty by the manufacturers, sellers or lessors of any item or component part thereof and all maintenance Records and other documents relating thereto.

“Tax” means Income Taxes and Other Taxes as defined in the Tax Sharing Agreement.

“Tax Sharing Agreement” means the Tax Sharing Agreement among the Parties to be dated as of even date herewith.

“Third Party” means a Person (a) that is not a Party to this Agreement, other than a member of any Group and (b) that is not an Affiliate thereof.

“Third Party Claim” has the meaning set forth in Section 6.04(b).

“Third Party Consent” has the meaning set forth in Section 2.11.

“Ticketing Business” means (a) the businesses and operations of TM Spinco and its subsidiaries as described in the Prospectus forming a part of TM Spinco’s Registration Statement, (b) any other business conducted primarily through the use of the TM Assets prior to the Effective Time and (c) the businesses and operations of Business Concerns acquired or established by or for TM Spinco or any of its Subsidiaries after the date of this Agreement.

“TM Assets” has the meaning set forth in Section 2.04.

“TM Claims” has the meaning set forth in Section 6.01(a).

“TM Common Stock” means the common stock, par value \$0.01 per share, of TM Spinco.

“TM Distribution” means the distribution on the TM Distribution Date, to holders of record of shares of IAC Common Stock and IAC Class B Common Stock as of the TM Distribution Record Date, of the TM Common Stock owned by IAC on the basis of a fraction of a share of TM Common Stock equal to the TM Distribution Ratio for every one share of IAC Common Stock or IAC Class B Common Stock.

“TM Distribution Date” means the date on which IAC distributes all of the issued and outstanding shares of TM Common Stock to the holders of IAC Common Stock and IAC Class B Common Stock.

“TM Distribution Ratio” means 1/5, subject to adjustment pursuant to Section 5.02(a).

“TM Distribution Record Date” means such date as may be determined by the IAC Board as the record date for the TM Distribution.

“TM Effective Time Cash Balance” has the meaning set forth in Section 4.04(a).

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“TM Entities” means those Business Concerns forming part of the IAC Group which are identified on Schedule 2.04(b) and which on and after the Effective Time form part of the TM Group.

“TM Group” means TM Spinco, the TM Entities and each other Person (other than any member of any other Group) that is a direct or indirect Subsidiary of TM Spinco immediately after the Effective Time, and each Person that becomes a Subsidiary of TM Spinco after the Effective Time.

“TM Group Balance Sheet” has the meaning set forth in Section 2.04(c).

“TM Liabilities” has the meaning set forth in Section 2.10.

“TM Opening Balance Sheet” has the meaning set forth in Section 2.04(e).

“TM Releasers” has the meaning set forth in Section 6.01(a).

“TM Spinco” has the meaning set forth in the preamble hereto.

“TM Target Cash Balance” has the meaning set forth in Section 4.04(a).

“Transfer Impediment” has the meaning set forth in Section 3.01(a).

“Transactions Memo” has the meaning set forth in the recitals hereto.

“Transition Services Agreement” means the Transition Services Agreement among the Parties to be dated as of even date herewith.

“Tree Assets” has the meaning set forth in Section 2.07.

“Tree Claims” has the meaning set forth in Section 6.01(d).

“Tree Common Stock” means the common stock, par value \$0.01 per share, of Tree Spinco.

“Tree Distribution” means the distribution on the Tree Distribution Date, to holders of record of shares of IAC Common Stock and IAC Class B Common Stock as of the Tree Distribution Record Date, of the Tree Common Stock owned by IAC on the basis of a fraction of a share of Tree Common Stock equal to the Tree Distribution Ratio for every one share of IAC Common Stock or IAC Class B Common Stock.

“Tree Distribution Date” means the date on which IAC distributes all of the issued and outstanding shares of Tree Common Stock to the holders of IAC Common Stock and IAC Class B Common Stock.

“Tree Distribution Ratio” means 1/30, subject to adjustment pursuant to Section 5.02(a).

“Tree Distribution Record Date” means such date as may be determined by the IAC Board as the record date for the Tree Distribution.

“Tree Effective Time Cash Balance” has the meaning set forth in Section 4.04(d).

“Tree Entities” means those Business Concerns forming part of the IAC Group which are identified on Schedule 2.07(b) and which on and after the Effective Time form part of the Tree Group.

“Tree Group” means Tree Spinco, the Tree Entities and each other Person (other than any member of any other Group) that is a direct or indirect Subsidiary of Tree Spinco immediately after the Effective Time, and each Person that becomes a Subsidiary of Tree Spinco after the Effective Time.

“Tree Group Balance Sheet” has the meaning set forth in Section 2.07(c).

“Tree Liabilities” has the meaning set forth in Section 2.10.

“Tree Opening Balance Sheet” has the meaning set forth in Section 2.07(e).

“Tree Releasers” has the meaning set forth in Section 6.01(d).

“Tree Spinco” has the meaning set forth in the preamble hereto.

“Tree Target Cash Balance” has the meaning set forth in Section 4.04(d).

“Unreleased Group” has the meaning set forth in Section 3.02.

“Unreleased Liabilities” has the meaning set forth in Section 3.02.

“Unreleased Person” has the meaning set forth in Section 3.02.

“Unreleased Separate-co” has the meaning set forth in Section 3.02.

“Vacations Business” means (a) the businesses and operations of Interval Spinco and its subsidiaries as described in the Prospectus forming a part of Interval Spinco’s Registration Statement, (b) any other business conducted primarily through the use of the Interval Assets prior to the Effective Time and (c) the businesses and operations of Business Concerns acquired or established by or for Interval Spinco or any of its Subsidiaries after the date of this Agreement.

“Warrant Share Number” has the meaning set forth in Section 5.05(a)(i).

1.02. Schedules. The following schedules are attached to this Agreement and form a part hereof:

Schedule 1.01(a)	Old IAC Integrated Warrant
Schedule 2.04(a)	TM Assets
Schedule 2.04(b)	TM Entities

Schedule 2.04(c)	TM Group Balance Sheet
Schedule 2.05(a)	Interval Assets
Schedule 2.05(b)	Interval Entities
Schedule 2.05(c)	Interval Group Balance Sheet
Schedule 2.06(a)	HSN Assets
Schedule 2.06(b)	HSN Entities
Schedule 2.06(c)	HSN Group Balance Sheet
Schedule 2.07(a)	Tree Assets
Schedule 2.07(b)	Tree Entities
Schedule 2.07(c)	Tree Group Balance Sheet
Schedule 2.09(a)	Excluded Assets
Schedule 2.10(a)	TM Liabilities
Schedule 2.10(b)	Interval Liabilities
Schedule 2.10(c)	HSN Liabilities
Schedule 2.10(d)	Tree Liabilities
Schedule 2.10(e)	Retained Liabilities
Schedule 2.14(a)	IAC Resignation Exceptions

1.03. Effective Time; Suspension. (a) This Agreement shall be effective as of the Effective Time.

(b) Notwithstanding Section 1.03(a) above, as between any two of the Parties, the provisions of, and the obligations under, this Agreement shall be suspended as between such Parties until the applicable Relevant Time (and, as the context requires, references to the Effective Time shall be deemed to refer to the Relevant Time), other than Sections 2.01, 2.02, 2.03, 2.04, 2.05, 2.06, 2.07, 2.09 and 2.10, each of which shall be effective as of the Effective Time. For the avoidance of doubt, in the event that one or more of the Distributions shall not be effected on the first Distribution Date to occur, then for purposes of determining the rights and obligations between IAC and any Spinco the Spinco Common Stock of which shall have been distributed on such

date, until the Distribution Date, if any, for each Spinco not so distributed, such undistributed Spinco and the members of its Corresponding Group shall continue to be treated as members of the IAC Group and shall not, upon its Distribution Date, bear any Liability for any Retained Liabilities.

## ARTICLE II THE SEPARATION

2.01. Separation. To the extent not already complete, IAC and the Spinco's agree to implement the Separation and to cause the Corresponding Businesses of each Spinco to be transferred to such Spinco and its Subsidiaries and the Remaining Business to be held by IAC and its Subsidiaries (other than the Spinco's and their Subsidiaries) as of the Effective Time, on the terms and subject to the conditions set forth in this Agreement. The Parties acknowledge that the Separation is intended to result in each Spinco, directly or indirectly, operating its Corresponding Business, owning its Corresponding Assets and assuming its Corresponding Liabilities as set forth in this Article II.

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2.02. Implementation. The Separation shall be completed in accordance with the agreed general principles, objectives and other provisions set forth in this Article II and shall be implemented in the following manner:

- (a) through the completion of the steps described in the Transactions Memo;
- (b) through the transfer from time to time following the Effective Time of the Deferred Transfer Assets as described in Article III;
- (c) through the completion from time to time following the Effective Time of the Deferred Transactions, as described in Section 10.01(a); and
- (d) through the performance by the Parties of all other provisions of this Agreement.

2.03. Transfer of Spun Assets; Assumption of Spun Liabilities. On the terms and subject to the conditions set forth in this Agreement, and in furtherance of the Separation, with effect as of the Effective Time:

(a) To the extent not already complete, IAC agrees to cause the Corresponding Assets of each Spinco to be contributed, assigned, transferred, conveyed and delivered, directly or indirectly, to such Spinco, and each Spinco agrees to accept all of its Corresponding Assets and all of the rights, title and interest in and to all its Corresponding Assets owned, directly or indirectly, by IAC which, except with respect to Deferred Corresponding Assets and Unreleased Liabilities, will result in such Spinco owning, directly or indirectly, its Corresponding Business.

(b) Each Spinco agrees to accept, assume and faithfully perform, discharge and fulfill all of its Corresponding Liabilities in accordance with their respective terms.

2.04. TM Assets. For the purposes of this Agreement, "TM Assets" shall mean, without duplication, those Assets whether now existing or hereinafter acquired, used or contemplated to be used or held for use exclusively or primarily in the ownership, operation or conduct of the Ticketing Business or relating exclusively or primarily to the Ticketing Business or to a TM Entity including the following:

(a) all Assets expressly identified in this Agreement or in any Ancillary Agreement or in any Schedule hereto or thereto, including those, if any, listed on Schedule 2.04(a), as Assets to be transferred to, or retained by, TM Spinco or any other member of the TM Group;

(b) the outstanding capital stock, units or other equity interests of the TM Entities, as listed on Schedule 2.04(b), and the Assets owned by such TM Entities;

(c) all Assets properly reflected on Schedule 2.04(c) (the "TM Group Balance Sheet"), excluding Assets disposed of by IAC or any other Subsidiary or entity controlled by IAC subsequent to the date of the TM Group Balance Sheet;

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(d) all Assets that have been written off, expensed or fully depreciated by IAC or any Subsidiary or entity controlled by IAC that, had they not been written off, expensed or fully depreciated, would have been reflected on the TM Group Balance Sheet in accordance with accounting principles generally accepted in the United States ("GAAP");

(e) all Assets acquired by IAC or any Subsidiary or entity controlled by IAC after the date of the TM Group Balance Sheet and that would be reflected on the balance sheet of TM Spinco as of the Effective Time (the "TM Opening Balance Sheet"), if such balance sheet were prepared in accordance with GAAP; and

(f) all Assets transferred to TM Spinco or any member of the TM Group pursuant to Section 10.01(a); provided, however, that any such transfer shall take effect under Section 10.01(a) and not under this Section 2.04.

Notwithstanding the foregoing, there shall be excluded from the definition of TM Assets under this Section 2.04 Business Records to the extent they are included in or primarily relate to any Excluded Asset or Retained Liability or the Remaining Business or their transfer is prohibited by Applicable Law or by agreements between any other Separate-co or any member of another Separate-co's Corresponding Group and Third Parties or otherwise would subject any other Separate-co or any member of any other Corresponding Group to liability for such transfer. Access to such excluded Business Records shall be governed by Article VIII.

2.05. Interval Assets. For the purposes of this Agreement, "Interval Assets" shall mean, without duplication, those Assets whether now existing or hereinafter acquired, used or contemplated to be used or held for use exclusively or primarily in the ownership, operation or conduct of the Vacations Business or relating exclusively or primarily to the Vacation Business or to an Interval Entity including the following:

(a) all Assets expressly identified in this Agreement or in any Ancillary Agreement or in any Schedule hereto or thereto, including those, if any, listed on Schedule 2.05(a), as Assets to be transferred to, or retained by, Interval Spinco or any other member of the Interval Group;

(b) the outstanding capital stock, units or other equity interests of the Interval Entities, as listed on Schedule 2.05(b), and the Assets owned by such Interval Entities;

(c) all Assets properly reflected on Schedule 2.05(c) (the “Interval Group Balance Sheet”), excluding Assets disposed of by IAC or any other Subsidiary or entity controlled by IAC subsequent to the date of the Interval Group Balance Sheet;

(d) all Assets that have been written off, expensed or fully depreciated by IAC or any Subsidiary or entity controlled by IAC that, had they not been written off, expensed or fully depreciated, would have been reflected on the Interval Group Balance Sheet in accordance with GAAP;

(e) all Assets acquired by IAC or any Subsidiary or entity controlled by IAC after the date of the Interval Group Balance Sheet and that would be reflected on the balance

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sheet of Interval Spinco as of the Effective Time (the “Interval Opening Balance Sheet”), if such balance sheet were prepared in accordance with GAAP; and

(f) all Assets transferred to Interval Spinco or any member of the Interval Group pursuant to Section 10.01(a); provided, however, that any such transfer shall take effect under Section 10.01(a) and not under this Section 2.05.

Notwithstanding the foregoing, there shall be excluded from the definition of Interval Assets under this Section 2.05 Business Records to the extent they are included in or primarily relate to any Excluded Asset or Retained Liability or the Remaining Business or their transfer is prohibited by Applicable Law or by agreements between any other Separate-co or any member of another Separate-co’s Corresponding Group and Third Parties or otherwise would subject any other Separate-co or any member of any other Corresponding Group to liability for such transfer. Access to such excluded Business Records shall be governed by Article VIII.

2.06. HSN Assets. For the purposes of this Agreement, “HSN Assets” shall mean, without duplication, those Assets whether now existing or hereinafter acquired, used or contemplated to be used or held for use exclusively or primarily in the ownership, operation or conduct of the Retailing Business or relating exclusively or primarily to the Retailing Business or to an HSN Entity including the following:

(a) all Assets expressly identified in this Agreement or in any Ancillary Agreement or in any Schedule hereto or thereto, including those, if any, listed on Schedule 2.06(a), as Assets to be transferred to, or retained by, HSN Spinco or any other member of the HSN Group;

(b) the outstanding capital stock, units or other equity interests of the HSN Entities, as listed on Schedule 2.06(b), and the Assets owned by such HSN Entities;

(c) all Assets properly reflected on Schedule 2.06(c) (the “HSN Group Balance Sheet”), excluding Assets disposed of by IAC or any other Subsidiary or entity controlled by IAC subsequent to the date of the HSN Group Balance Sheet;

(d) all Assets that have been written off, expensed or fully depreciated by IAC or any Subsidiary or entity controlled by IAC that, had they not been written off, expensed or fully depreciated, would have been reflected on the HSN Group Balance Sheet in accordance with GAAP;

(e) all Assets acquired by IAC or any Subsidiary or entity controlled by IAC after the date of the HSN Group Balance Sheet and that would be reflected on the balance sheet of HSN as of the Effective Time (the “HSN Opening Balance Sheet”), if such balance sheet were prepared in accordance with GAAP; and

(f) all Assets transferred to HSN Spinco or any member of the HSN Group pursuant to Section 10.01(a); provided, however, that any such transfer shall take effect under Section 10.01(a) and not under this Section 2.06.

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Notwithstanding the foregoing, there shall be excluded from the definition of HSN Assets under this Section 2.06 Business Records to the extent they are included in or primarily relate to any Excluded Asset or Retained Liability or the Remaining Business or their transfer is prohibited by Applicable Law or by agreements between any other Separate-co or any member of another Separate-co’s Corresponding Group and Third Parties or otherwise would subject any other Separate-co or any member of any other Corresponding Group to liability for such transfer. Access to such excluded Business Records shall be governed by Article VIII.

2.07. Tree Assets. For the purposes of this Agreement, “Tree Assets” shall mean, without duplication, those Assets whether now existing or hereinafter acquired, used or contemplated to be used or held for use exclusively or primarily in the ownership, operation or conduct of the Lending and Real Estate Business or relating exclusively or primarily to the Lending and Real Estate Business or to a Tree Entity including the following:

(a) all Assets expressly identified in this Agreement or in any Ancillary Agreement or in any Schedule hereto or thereto, including those, if any, listed on Schedule 2.07(a), as Assets to be transferred to, or retained by, Tree Spinco or any other member of the Tree Group;

(b) the outstanding capital stock, units or other equity interests of the Tree Entities, as listed on Schedule 2.07(b), and the Assets owned by such Tree Entities;

(c) all Assets properly reflected on Schedule 2.07(c) (the “Tree Group Balance Sheet”), excluding Assets disposed of by IAC or any other Subsidiary or entity controlled by IAC subsequent to the date of the Tree Group Balance Sheet;

(d) all Assets that have been written off, expensed or fully depreciated by IAC or any Subsidiary or entity controlled by IAC that, had they not been written off, expensed or fully depreciated, would have been reflected on the Tree Group Balance Sheet in accordance with GAAP;

(e) all Assets acquired by IAC or any Subsidiary or entity controlled by IAC after the date of the Tree Group Balance Sheet and that would be reflected on the balance sheet of Tree Spinco as of the Effective Time (the "Tree Opening Balance Sheet"), if such balance sheet were prepared in accordance with GAAP; and

(f) all Assets transferred to Tree Spinco or any member of the Tree Group pursuant to Section 10.01(a); provided, however, that any such transfer shall take effect under Section 10.01(a) and not under this Section 2.07.

Notwithstanding the foregoing, there shall be excluded from the definition of Assets under this Section 2.07 Business Records to the extent they are included in or primarily relate to any Excluded Asset or Retained Liability or the Remaining Business or their transfer is prohibited by Applicable Law or by agreements between any other Separate-co or any member of another Separate-co's Corresponding Group and Third Parties or otherwise would subject any other Separate-co or any member of any other Corresponding Group to liability for such transfer. Access to such excluded Business Records shall be governed by Article VIII.

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2.08. Deferred Spun Assets. Notwithstanding anything to the contrary contained in Section 2.04, 2.05, 2.06 or 2.07 or elsewhere in this Agreement, the Spun Assets shall not include any Deferred Spun Assets. The transfer to a Spinco or its Corresponding Group of any such Deferred Spun Asset shall only be completed at the time, in the manner and subject to the conditions set forth in Article III.

2.09. Excluded Assets. (a) Notwithstanding anything to the contrary contained in Section 2.04, 2.05, 2.06 or 2.07 or elsewhere in this Agreement, the following Assets of IAC (or of any other relevant member of the IAC Group) that would otherwise be included among the Corresponding Assets of a Spinco shall not be transferred to such Spinco (or any other member of its Corresponding Group), shall not form part of its Corresponding Assets and shall remain the exclusive property of IAC (or the relevant member of the IAC Group) on and after the Effective Time (the "Excluded Assets"):

(i) any Asset expressly identified on Schedule 2.09(a); and

(ii) any Asset transferred to IAC or to any other relevant member of the IAC Group pursuant to Section 10.01(a); provided, however, that any such transfers shall take effect under Section 10.01(a) and not under this Section 2.09.

(b) Notwithstanding anything to the contrary in this Agreement, Excluded Assets shall not include Deferred Excluded Assets. The transfer to IAC (or to the relevant member of the IAC Group) or to another Spinco (or to the relevant member of its Corresponding Group) of any such Asset shall be completed at the time, in the manner and subject to the conditions set forth in Article III.

2.10. Liabilities. For the purposes of this Agreement, Liabilities shall be identified as "TM Liabilities," "Interval Liabilities," "HSN Liabilities," "Tree Liabilities" or "Retained Liabilities" under the following principles:

(a) any Liability which is expressly identified on Schedule 2.10(a) shall be a TM Liability;

(b) any Liability which is expressly identified on Schedule 2.10(b) shall be an Interval Liability;

(c) any Liability which is expressly identified on Schedule 2.10(c) shall be an HSN Liability;

(d) any Liability which is expressly identified on Schedule 2.10(d) shall be a Tree Liability;

(e) any Liability which is expressly identified on Schedule 2.10(e) shall be a Retained Liability;

(f) (i) 50% of any Shared Liability of Ticketmaster Spinco shall be a Ticketmaster Liability and 50% shall be a Retained Liability, (ii) 50% of any Shared Liability of Interval Spinco shall be an Interval Liability and 50% shall be a Retained Liability, (iii) 50% of

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any Shared Liability of HSN Spinco shall be an HSN Liability and 50% shall be a Retained Liability and (iv) 50% of any Shared Liability of Tree Spinco shall be a Tree Liability and 50% shall be a Retained Liability;

(g) any Liability of a Spun Entity, whether arising or accruing prior to, on or after the Effective Time and whether the facts on which it is based occurred on, prior to or after the Effective Time and whether or not reflected on the Corresponding Group Balance Sheet or on the Corresponding Opening Balance Sheet, shall be a Corresponding Liability of such Spun Entity's Corresponding Group, unless it is expressly identified in this Agreement (including on any Schedule) or in any Ancillary Agreement as a Liability to be assumed or retained by IAC (or any other member of the IAC Group) or by a Spinco that is not included in such Spun Entity's Corresponding Group (or any other relevant member of such other Spinco's Corresponding Group), in which case it shall be a Retained Liability or a Spun Liability of such other Spinco's Corresponding Group, as applicable;

(h) any Liability relating to, arising out of, or resulting from the conduct of, a Spun Business (as conducted at any time prior to, on or after the Effective Time) or relating to a Spun Asset or a Deferred Spun Asset and whether arising or accruing prior to, on or after the Effective Time and whether the facts on which it is based occurred on, prior to or after the Effective Time and whether or not reflected on the Corresponding Group Balance Sheet or the Corresponding Opening Balance Sheet, shall be a Corresponding Liability of such Spun Business' Corresponding Group, unless it is expressly identified in this Agreement (including on any Schedule) or in any Ancillary Agreement as a Liability to be assumed or retained by IAC (or any other member of the IAC Group) or by a Spinco that is not included in such Spun Entity's Corresponding Group (or any other relevant member of such other Spinco's Corresponding Group), in which case it shall be a Retained Liability or Spun Liability of such other Spinco's Corresponding Group, as applicable;

(i) any Liability which is reflected or otherwise disclosed as a liability or obligation of any Spinco Group on its Corresponding Group Balance Sheet shall be a Corresponding Liability of such Spinco Group;

(j) any Liability which would be reflected or otherwise disclosed on the Corresponding Group Balance Sheet of any Spinco Group, if such balance sheet were prepared under GAAP, shall be a Corresponding Liability of such Spinco Group;

(k) any Liability pursuant to contracts entered into by IAC and/or any member of the IAC Group (i) in connection with the acquisition, by IAC and/or any member of the IAC Group, of any Spun Entity and/or Spun Business or (ii) otherwise relating primarily to a Spun Entity and/or the conduct of a Spun Business, shall be a Corresponding Liability of such Spun Entity's or Spun Business's Corresponding Group, unless it is expressly identified in this Agreement (including on any Schedule) or in any Ancillary Agreement as a Liability to be assumed or retained by IAC (or any other member of the IAC Group) or by a Spinco that is not included in such Spun Entity's Corresponding Group (or any other relevant member of such other Spinco's Corresponding Group), in which case it shall be a Retained Liability or Spun Liability of such other Spinco's Corresponding Group, as applicable;

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(l) any Liability of a Remaining IAC Entity, whether arising or accruing prior to, on or after the Effective Time and whether the facts on which it is based occurred on, prior to or after the Effective Time, shall be Retained Liability, unless it is determined to be a Spun Liability pursuant to clause (a), (b), (c), (d), (f), (g), (h), (i), (j) or (k) above, in which case it shall be a Spun Liability as set forth thereunder;

(m) any Liability relating to, arising out of, or resulting from the conduct of, a Remaining IAC Business (as conducted at any time prior to, on or after the Effective Time) or relating to an Excluded Asset and whether arising or accruing prior to, on or after the Effective Time and whether the facts on which it is based occurred on, prior to or after the Effective Time, shall be a Retained Liability, unless it is determined to be a Spun Liability pursuant to clause (a), (b), (c), (d), (f), (g), (h), (i), (j) or (k) above, in which case it shall be a Spun Liability as set forth thereunder; and

(n) any Liability of any Spinco or any other member of any Spinco Group under this Agreement or any Ancillary Agreement shall be a Corresponding Liability of such Spinco Group and any Liability of IAC or any other member of the IAC Group under this Agreement or any Ancillary Agreement shall be a Retained Liability.

2.11. Third Party Consents and Government Approvals. To the extent that the Separation or any transaction contemplated thereby requires a Consent from any Third Party (a "Third Party Consent") or any Governmental Authorization, the Parties will use commercially reasonable efforts to obtain all such Third Party Consents and Governmental Authorizations prior to the Effective Time. If the Parties fail to obtain any such Third Party Consent or Governmental Authorization prior to the Effective Time, the matter shall be dealt with in the manner set forth in Article III.

2.12. Preservation of Agreements. The Parties each agree that all written agreements, arrangements, commitments and understandings between any member or members of its Corresponding Group, on the one hand, and any member or members of any other Group, on the other hand, shall remain in effect in accordance with their terms from and after the Effective Time, unless otherwise terminated by the relevant Parties.

2.13. Ancillary Agreements. On or prior to the Effective Time, the Parties shall execute and deliver or, as applicable, cause the appropriate members of their respective Groups to execute and deliver, each of the following agreements (collectively, the "Ancillary Agreements"):

- (a) the Employee Matters Agreement;
- (b) the Tax Sharing Agreement;
- (c) the Transition Services Agreement; and
- (d) the Transactions Memorandum, and such other agreements and instruments as may relate to or be identified in any of the

foregoing agreements.

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2.14. Resignations. (a) IAC agrees to cause each Person who is a director or an officer of any Spun Entity and who will not be or become an employee of such Spun Entity's Spinco Group (or any member thereof) at the Effective Time to resign from such position with effect as of the Effective Time; provided, however, that this Section 2.14(a) shall not apply to the persons in the capacities set forth on Schedule 2.14(a).

(b) Each Spinco agrees to cause each Person (i) who is a director or an officer of a Remaining IAC Entity or any Spun Entity that is not a member of such Spinco's Corresponding Group and (ii) who will become an employee of such Spinco's Corresponding Group (or any member thereof) at the Effective Time to resign from such position with effect as of the Effective Time.

(c) Each Separate-co agrees to obtain all such letters of resignation or other evidence of such resignations as may be necessary or desirable in performing their respective obligations under this Section 2.14.

2.15. Cooperation. The Parties shall cooperate in all aspects of the Separation and shall sign all such documents and perform all such other acts as may be necessary or desirable to give full effect to the Separation; and each Separate-co shall cause each other member of its Corresponding Group to do likewise.

2.16. Intercompany Accounts Among Groups. Except as otherwise expressly provided in any Ancillary Agreement, from and after the Effective Time, each Separate-co agrees to cause any Intercompany Account payable by any member of its Corresponding Group to any member of any other Group to be satisfied in full.

2.17. Disclaimer of Representations and Warranties. (a) Each of the Parties (on behalf of itself and each other member of its respective Corresponding Group) understands and agrees that, except as expressly set forth herein or in any Ancillary Agreement, no Party to this Agreement, any

Ancillary Agreement or any other agreement or document contemplated by this Agreement, any Ancillary Agreement or otherwise, makes any representation or warranty, express or implied, regarding any of the Spun Assets, Spun Entities, Spun Businesses, Excluded Assets, Spun Liabilities or Retained Liabilities including any warranty of merchantability or fitness for a particular purpose, or any representation or warranty regarding any Consents or Governmental Authorizations required in connection therewith or their transfer, regarding the value or freedom from Encumbrances of, or any other matter concerning, any Spun Asset or Excluded Asset, or regarding the absence of any defense or right of setoff or freedom from counterclaim with respect to any claim or other Spun Asset or Excluded Asset, including any Account Receivable of any Party, or as to the legal sufficiency of any assignment, document or instrument delivered hereunder to convey title to any Spun Asset or Excluded Asset upon the execution, delivery and filing hereof or thereof.

(b) Except as may expressly be set forth herein or in any Ancillary Agreement, all Spun Assets and Excluded Assets are being transferred on an “as is, where is” basis, at the risk of the respective transferees without any warranty whatsoever on the part of the transferor, formal or implicit, legal, statutory or conventional (and, in the case of any Real Property, by means of a quitclaim or similar form deed or conveyance).

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### ARTICLE III DEFERRED SEPARATION TRANSACTIONS

3.01. Deferred Transfer Assets. (a) If the transfer to, or retention by, any member of a Spinco Group of any Asset that would otherwise constitute its Corresponding Asset (a “Deferred Spun Asset”; with respect to such Spinco, a “Deferred Corresponding Asset”) or the transfer to, or retention by, any member of the IAC Group of any Asset that would otherwise constitute an Excluded Asset (a “Deferred Excluded Asset,” and together with a Deferred Spun Asset, a “Deferred Transfer Asset”) cannot be accomplished without giving rise to a violation of Applicable Law, or without obtaining a Third Party Consent or a Governmental Authorization (collectively, a “Transfer Impediment”) and any such Third Party Consent or Governmental Authorization has not been obtained prior to the Effective Time, then such Asset shall be dealt with in the manner described in this Section 3.01.

(b) Pending removal of such Transfer Impediment, the Person holding the Deferred Transfer Asset (the “Retaining Person”) shall hold such Deferred Transfer Asset for the use and benefit, insofar as reasonably possible, of the Party to whom the transfer of such Asset could not be made at the Effective Time (the “Deferred Beneficiary”). The Retaining Person shall use commercially reasonable efforts to preserve such Asset and its right, title and interest therein and take all such other action as may reasonably be requested by the Deferred Beneficiary (in each case, at such Deferred Beneficiary’s expense) in order to place such Deferred Beneficiary, insofar as reasonably possible, in the same position as it would be in if such Asset had been transferred to it or retained by it with effect as of the Effective Time and so that, subject to the standard of care set forth above, all the benefits and burdens relating to such Deferred Transfer Asset, including possession, use, risk of loss, potential for gain, enforcement of rights against third parties and dominion, control and command over such Asset, are to inure from and after the Effective Time to such Deferred Beneficiary and the members of its Group. The provisions set forth in this Article III contain all the obligations of the Retaining Person vis-à-vis the Deferred Beneficiary with respect to the Deferred Transfer Asset and the Retaining Person shall not be bound vis-à-vis the Deferred Beneficiary by any other obligations under Applicable Law.

(c) The Parties shall continue on and after the Effective Time to use commercially reasonable efforts to remove all Transfer Impediments; provided, however, that no Party shall be required to make any unreasonable payment or assume any material obligations therefor. As and when any Transfer Impediment is removed, the relevant Deferred Transfer Asset shall forthwith be transferred to its Deferred Beneficiary at no additional cost and in a manner and on terms consistent with the relevant provisions of this Agreement and the Ancillary Agreements, including Section 2.17(b) hereof, and any such transfer shall take effect as of the date of its actual transfer.

(d) Notwithstanding the foregoing or any provision of Applicable Law, a Retaining Person shall not be obligated, in connection with the foregoing, to expend any money in respect of a Deferred Transfer Asset unless the necessary funds are advanced by the Deferred Beneficiary of such Deferred Transfer Asset, other than reasonable attorneys’ fees and recording or similar fees, all of which shall be promptly reimbursed by the Deferred Beneficiary of such Deferred Transfer Asset.

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3.02. Unreleased Liabilities. If at any time on or after the Effective Time, any member of any Group shall remain obligated to any Third Party in respect of any Corresponding Liability not its own — i.e., a Corresponding Liability of another Separate-co (such other Separate-co with respect such Unreleased Liability and such Unreleased Person, the “Responsible Separate-co”) — the following provisions shall apply. The Liabilities referred to in this Section 3.02 are hereinafter referred to as the “Unreleased Liabilities,” the Person remaining obligated for such Liability in a manner contrary to what is intended under this Agreement is hereinafter referred to as the “Unreleased Person,” such Unreleased Person’s Corresponding Separate-co, the “Unreleased Separate-co” and such Unreleased Person’s Corresponding Group, the “Unreleased Group”.

(a) Each Unreleased Person shall remain obligated to Third Parties for such Unreleased Liability as provided in the relevant Contract, Applicable Law or other source of such Unreleased Liability and shall pay and perform such Unreleased Liability as and when required, in accordance with its terms.

(b) Each Responsible Separate-co shall indemnify, defend and hold harmless each Other Separate-Co Indemnified Party that is an Unreleased Person from and against any Liabilities arising in respect of each Unreleased Liability of such Unreleased Person that is a Corresponding Liability of such Responsible Separate-co. Each Responsible Separate-co shall take, and shall cause the members of its Corresponding Group (the “Responsible Group”) to take, such other actions as may be reasonably requested by the applicable Unreleased Separate-co in accordance with the provisions of this Agreement in order to place the applicable Unreleased Group, insofar as reasonably possible, in the same position as it would be in if such Unreleased Liability had been fully contributed, assigned, transferred, conveyed, and delivered to, and accepted and assumed or retained, as applicable, by such Responsible Separate-co (or any relevant member of the Responsible Group) with effect as of the Effective Time and so that all the benefits and burdens relating to such Unreleased Liability, including possession, use, risk of loss, potential for gain, and dominion, control and command over such Unreleased Liability, are to inure from and after the Effective Time to the member or members of the Responsible Group.

(c) Each Responsible Separate-co shall continue on and after the Effective Time to use commercially reasonable efforts to cause the applicable Unreleased Persons to be released from their respective Unreleased Liabilities.

(d) If, as and when it becomes possible to delegate, novate or extinguish any Unreleased Liability in favor of an Unreleased Person, the relevant Parties shall promptly sign all such documents and perform all such other acts, and shall cause each member of their respective Groups, as applicable, to sign all such documents and perform all such other acts, as may be necessary or desirable to give effect to such delegation, novation, extinction or other release without payment of any further consideration by the Unreleased Person.

3.03. No Additional Consideration. For the avoidance of doubt, the transfer or assumption of any Assets or Liabilities under this Article III shall be effected without any additional consideration by any Party hereunder.

#### ARTICLE IV COVENANTS

4.01. General Covenants. Each Party covenants with and in favor of the other Parties that it shall, subject, in the case of IAC, to Article XII:

(a) do and perform all such acts and things, and execute and deliver all such agreements, assurances, notices and other documents and instruments as may reasonably be required of it to facilitate the carrying out of the intent and purpose of this Agreement;

(b) cooperate with and assist the other Parties, both before and after the Effective Time, in dealing with transitional matters relating to or arising from the Separation, the Distributions, this Agreement or the Ancillary Agreements; and

(c) cooperate in preparing and filing all documentation (i) to effect all necessary applications, notices, petitions, filings and other documents; and (ii) to obtain as promptly as reasonably practicable all Consents and Governmental Authorizations necessary or advisable to be obtained from any Third Party and/or any Governmental Authority in order to consummate the transactions contemplated by this Agreement (including all approvals required under applicable antitrust laws).

4.02. Covenants of the Spinco's. In addition to the covenants of the Spinco's provided for elsewhere in this Agreement, each Spinco covenants and agrees with, and in favor of, the other Parties that it shall:

(a) use commercially reasonable efforts and do all things reasonably required of it to cause the Separation and the Distributions to be completed, including cooperating with IAC to obtain: the approval for the listing of such Spinco's Spinco Common Stock on NASDAQ or such other securities exchange or inter-dealer quotation system as is reasonably acceptable to IAC;

(b) use its commercially reasonable efforts to take all such action as may be necessary or desirable under applicable state securities and blue sky laws of the United States (and any comparable laws under any foreign jurisdictions) in connection with the Separation and the Distributions;

(c) use its commercially reasonable efforts to cause any member of another Group to be released, as soon as reasonably practicable, from any guarantees given by any member of such other Group (the "Guaranteeing Group"; its Corresponding Separate-co, the "Guaranteeing Separate-co") for the benefit of such Spinco (the "Guaranteed Spinco"; its Corresponding Group, the "Guaranteed Group"; its Corresponding Entities, the "Guaranteed Entities") or any Guaranteed Entities and (to the extent necessary to secure such releases) to cause itself or one or more members of the Guaranteed Group to be substituted in all respects for any member of the Guaranteeing Group in respect of such guarantees, provided, that in the event that, notwithstanding the commercially reasonable efforts of the Guaranteed Spinco, the Guaranteed Spinco is unable to obtain such guarantee releases, the Guaranteed Spinco hereby agrees to indemnify and hold the Guaranteeing Separate-co and the other members of the

Guaranteeing Group harmless from and against all Liabilities incurred by them in connection with, arising out of or resulting from such guarantees; and

(d) perform and, as applicable, cause each member of its Corresponding Group to perform each of its and their respective obligations under each Ancillary Agreement.

4.03. Spinco Common Stock Escrow Accounts. (a) Immediately following the Effective Time, each Spinco shall deposit a number of shares of its Spinco Common Stock as is equal to the product of (x) its Corresponding Distribution Ratio and (y) the number of shares of IAC Common Stock deliverable upon the exercise of the Old IAC Integrated Warrant if such warrant were to be exercised immediately prior to the Effective Time (such Spinco's "Corresponding Escrow Shares") into an escrow account (a "Spinco Common Stock Escrow Account") to be established by each Spinco with The Bank of New York Mellon (the "Escrow Agent") to be held by the Escrow Agent pursuant to the terms of an escrow agreement in customary form to be agreed upon by each of the Spinco's and the Escrow Agent prior to the Effective Time (an "Escrow Agreement"). The Spinco Common Stock Escrow Accounts will serve as a source of shares of Spinco Common Stock deliverable upon the exercise of the New IAC Integrated Warrant. Under the terms of the Escrow Agreements, any shares of Spinco Common Stock designated for delivery upon exercise of the New IAC Integrated Warrant shall be returned to the applicable Spinco upon the expiration without exercise of the New IAC Integrated Warrant in accordance with its terms. IAC and each Spinco acknowledge that IAC's obligation to issue shares of IAC Common Stock to the holder of the Old IAC Integrated Warrant relates to the businesses that were conducted by the IAC Group and the Spinco Groups prior to the Effective Time. Accordingly, from and after the Effective Time, upon an exercise of the New IAC Integrated Warrant, as between IAC and the Spinco's, each Spinco will exclusively bear the obligation to deliver shares of its Spinco Common Stock. The issuance and delivery by each Spinco of its Corresponding Escrow Shares to the applicable Spinco Common Stock Escrow Account is intended to further such Spinco's satisfaction of such obligations following the Separation and the Distributions; provided, however, that if for any reason such Spinco Common Stock Escrow Account does not satisfy such obligations, the transfer of shares by such Spinco to the Spinco Common Stock Escrow Account under this Section 4.03 is not in substitution of the obligations of such Spinco under the immediately preceding sentence to deliver shares of its Spinco Common Stock. For the avoidance of doubt, any obligations with respect to the delivery of any Spinco Common Stock on account of the New IAC Integrated Warrant shall be a Corresponding Liability of such Spinco. If, at any time or from time to time following the Effective Time,

(X) IAC reasonably determines in good faith (which determination, absent manifest error, shall be final and binding) in its sole discretion that, for any Spinco, its Corresponding Escrow Shares are insufficient to satisfy the obligations with respect to the New IAC Integrated Warrant, IAC shall provide to such Spinco written notice indicating the number of additional shares of such Spinco Common Stock necessary to satisfy the obligations pursuant to the New IAC Integrated Warrant and such Spinco shall promptly deposit into the applicable Spinco Common Stock Escrow Account the number of shares of such Spinco Common Stock indicated in the written notice from IAC; or

(Y) any Spinco undertakes any action, or any event shall occur, that either (i) results in an adjustment to the number of shares of its Spinco Common Stock with respect to which the New IAC Integrated Warrant is exercisable or (ii) causes that portion of the New IAC Integrated Warrant that would otherwise have been exercisable for shares of such Spinco Common Stock to become exercisable into another form of consideration (including, without limitation, in conjunction with a merger of such Spinco or a reclassification of such Spinco Common Stock), then, in each case, such Spinco shall promptly deposit into the applicable Spinco Common Stock Escrow Account the number of additional shares of such Spinco Common Stock and/or the other consideration with respect to which the New IAC Integrated Warrant is exercisable.

(b) Notwithstanding the foregoing, in lieu of issuing any fractional shares of its Spinco Common Stock upon the exercise of the New IAC Integrated Warrant, the applicable Spinco shall promptly deposit into the applicable Spinco Common Stock Escrow Account cash in lieu of such fractional share in an amount computed in accordance with the terms of the New IAC Integrated Warrant.

4.04. Cash Balance True-Ups. (a) In the event that, after review and reconciliation, the amount of cash and cash equivalents reflected in the bank statements of TM Spinco and its subsidiaries as of the Effective Time plus the balance as of the Effective Time of any note or notes of any member of the IAC Group held by any member of the TM Group less the balance as of the Effective Time of any note or notes of any member of the TM Group held by any member of the IAC Group (the “TM Effective Time Cash Balance”) is greater than \$[\*] (the “TM Target Cash Balance”), TM Spinco shall make one or more payments to IAC as promptly as practicable after the Effective Time, but in no event more than [ninety (90)] days after the Effective Time, totaling an amount equal to the excess of the TM Effective Time Cash Balance over the TM Target Cash Balance. In the event that, after review and reconciliation, the TM Effective Time Cash Balance is less than the TM Target Cash Balance, IAC shall make one or more payments to TM Spinco as promptly as practicable after the Effective Time, but in no event more than [ninety (90)] days after the Effective Time, totaling an amount equal to the excess of the TM Target Cash Balance over the TM Effective Time Cash Balance. Notwithstanding Section 13.08, payments pursuant to this Section 4.04(a) shall not bear any interest.

(b) In the event that, after review and reconciliation, the amount of cash and cash equivalents reflected in the bank statements of Interval Spinco and its subsidiaries as of the Effective Time plus the balance as of the Effective Time of any note or notes of any member of the IAC Group held by any member of the Interval Group less the balance as of the Effective Time of any note or notes of any member of the Interval Group held by any member of the IAC Group (the “Interval Effective Time Cash Balance”) is greater than \$[\*] (the “Interval Target Cash Balance”), Interval Spinco shall make one or more payments to IAC as promptly as practicable after the Effective Time, but in no event more than [ninety (90)] days after the Effective Time, totaling an amount equal to the excess of the Interval Effective Time Cash Balance over the Interval Target Cash Balance. In the event that, after review and reconciliation, the Interval Effective Time Cash Balance is less than the Interval Target Cash Balance, IAC shall make one or more payments to Interval Spinco as promptly as practicable after the Effective

Time, but in no event more than [ninety (90)] days after the Effective Time, totaling an amount equal to the excess of the Interval Target Cash Balance over the Interval Effective Time Cash Balance. Notwithstanding Section 13.08, payments pursuant to this Section 4.04(b) shall not bear any interest.

(c) In the event that, after review and reconciliation, the amount of cash and cash equivalents reflected in the bank statements of HSN Spinco and its subsidiaries as of the Effective Time plus the balance as of the Effective Time of any note or notes of any member of the IAC Group held by any member of the HSN Group less the balance as of the Effective Time of any note or notes of any member of the HSN Group held by any member of the IAC Group (the “HSN Effective Time Cash Balance”) is greater than \$[\*] (the “HSN Target Cash Balance”), HSN Spinco shall make one or more payments to IAC as promptly as practicable after the Effective Time, but in no event more than [ninety (90)] days after the Effective Time, totaling an amount equal to the excess of the HSN Effective Time Cash Balance over the HSN Target Cash Balance. In the event that, after review and reconciliation, the HSN Effective Time Cash Balance is less than the HSN Target Cash Balance, IAC shall make one or more payments to HSN Spinco as promptly as practicable after the Effective Time, but in no event more than [ninety (90)] days after the Effective Time, totaling an amount equal to the excess of the HSN Target Cash Balance over the HSN Effective Time Cash Balance. Notwithstanding Section 13.08, payments pursuant to this Section 4.04(c) shall not bear any interest.

(d) In the event that, after review and reconciliation, the amount of cash and cash equivalents in the bank statements of Tree Spinco and its subsidiaries as of the Effective Time plus the balance as of the Effective Time of any note or notes of any member of the IAC Group held by any member of the Tree Group less the balance as of the Effective Time of any note or notes of any member of the Tree Group held by any member of the IAC Group (the “Tree Effective Time Cash Balance”) is greater than \$[\*] (the “Tree Target Cash Balance”), Tree Spinco shall make one or more payments to IAC as promptly as practicable after the Effective Time, but in no event more than [ninety (90)] days after the Effective Time, totaling an amount equal to the excess of the Tree Effective Time Cash Balance over the Tree Target Cash Balance. In the event that, after review and reconciliation, the Tree Effective Time Cash Balance is less than the Tree Target Cash Balance, IAC shall make one or more payments to Tree Spinco as promptly as practicable after the Effective Time, but in no event more than [ninety (90)] days after the Effective Time, totaling an amount equal to the excess of the Tree Target Cash Balance over the Tree Effective Time Cash Balance. Notwithstanding Section 13.08, payments pursuant to this Section 4.04(d) shall not bear any interest.

4.05. Non-Solicitation.

(a) IAC and each of the Spinco shall not, and each of them shall cause the other members of its respective Corresponding Group not to, from the applicable Distribution Date of a Spinco (the “Subject Spinco”) through and including the eighteen-month anniversary of such Distribution Date, without the prior written consent of the Subject Spinco, either directly or indirectly, on their own behalf or in the service or on behalf of others, solicit for

(b) No Spinco shall, and each of them shall cause the other members of its respective Corresponding Group not to, from the applicable Distribution Date of such Spinco through and including the eighteen-month anniversary of such Distribution Date, without the prior written consent of IAC, either directly or indirectly, on their own behalf or in the service or on behalf of others, solicit for employment or solicit, aid, induce or encourage any person who is an employee of IAC's Corresponding Group as of such Distribution Date to leave his or her employment.

(c) Nothing in this Section 4.06 shall be deemed to prohibit any general solicitation for employment through advertisements and search firms not specifically directed at employees of another Party, provided that the applicable Party has not encouraged or advised such firm to approach any such employee.

## ARTICLE V THE DISTRIBUTIONS

5.01. Conditions to the Distributions. (a) In addition to, and without in any way limiting, IAC's rights under Section 12.1, completion of each Distribution is conditioned on:

(i) the IAC Board not having determined that such Distribution is not in the best interests of IAC and its stockholders;

(ii) the Registration Statements with respect to such Spinco's common shares shall have been declared effective by the SEC or become effective under the Exchange Act, no stop order suspending the effectiveness of such Registration Statement shall have been issued and no proceedings for that purpose shall have been instituted or threatened by the SEC;

(iii) the applicable Spinco Common Stock shall have been accepted for listing on NASDAQ, subject to compliance with applicable listing requirements;

(iv) no Order or other legal restraint or prohibition preventing the consummation of any of the Distributions, or any of the transactions contemplated by this Agreement or any Ancillary Agreement, including the transactions to effect the Separation, shall be threatened, pending or in effect;

(v) any material Consents and Governmental Authorizations necessary to complete the Separation and the Distributions shall have been obtained and be in full force and effect;

(vi) the stockholders of IAC shall have approved, in accordance with the DGCL, a merger agreement providing for the merger of a wholly-owned subsidiary of IAC with and into IAC pursuant to which all of the outstanding shares of preferred stock of IAC shall be converted into the right to receive cash;

(vii) the IAC Board shall have received a written solvency opinion, in form and substance acceptable to the IAC Board, from Duff & Phelps regarding the

Separation, the Distributions and other transactions contemplated hereby, which opinion shall not have been withdrawn or modified;

(viii) IAC shall have received an opinion of Wachtell, Lipton, Rosen & Katz, in form and substance satisfactory to the IAC Board, regarding the qualification of the Distributions, as transactions that are generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code (to the extent such qualification is not addressed by an Internal Revenue Service private letter ruling (the "IRS Ruling") received by IAC), which opinion (and, in the event IAC shall have received the IRS Ruling, the IRS Ruling) shall not have been withdrawn or modified;

(ix) IAC shall have received opinions from its external tax advisors, in form and substance satisfactory to the IAC Board, regarding the U.S. federal income tax consequences to IAC of certain related matters and transactions (to the extent such matters are not addressed by the IRS Ruling) and certain state tax consequences to IAC of the spin-offs, which opinions shall not have been withdrawn or modified; and

(x) IAC shall have received an opinion of Delaware counsel to IAC, in form and substance satisfactory to the IAC Board, to the effect that the Separation and the Distributions do not require approval of the stockholders of IAC under Section 271 of the DGCL.

(b) The foregoing conditions are for the sole benefit of IAC and shall not give rise to or create any duty on the part of IAC or the IAC Board to waive or not to waive such conditions or in any way limit IAC's right to terminate this Agreement in whole or in part as set forth in Article XII or alter the consequences of any such termination from those specified in such Article XII. Any determination made by IAC prior to the Separation and the Distributions concerning the satisfaction or waiver of the conditions set forth in this Section 5.01 shall be final and conclusive.

5.02. Distribution of Spinco Common Stock. (a) Prior to the Effective Time and in accordance with the Transactions Memo, each Spinco shall issue to IAC such additional shares of its Spinco Common Stock (or shall take or cause to be taken such other appropriate actions to ensure that IAC has the requisite number of shares of Spinco Common Stock) to cause the number of shares of such Spinco Common Stock issued and outstanding immediately prior to the Effective Time to equal the product of (x) the sum of (i) the applicable IAC Record Date Share Number and (ii) the number of shares of IAC Common Stock issued or issuable pursuant to the exercise of outstanding IAC Stock Options or pursuant to the vesting of IAC Restricted Stock Units (as such terms are defined in the Employee Matters Agreement), in either case following the applicable Distribution Record Date and prior to the third Business Day immediately prior to the applicable Distribution Date (giving effect to any cashless exercise of IAC Stock Options or withholding of shares of

IAC Common Stock to satisfy tax withholding obligations) (“Post-Record Date IAC Shares”) (y) the Corresponding Distribution Ratio. The Corresponding Distribution Ratio with respect to any Spinco shall be appropriately adjusted in the event of any stock split, reverse stock split or similar event in respect of the IAC Common Stock and/or IAC Class B Common Stock following the date of this Agreement and prior to the Effective Time.

(b) On the terms and subject to the conditions in this Agreement, with respect to each Distribution, IAC will cause the applicable distribution or transfer agent (the “Agent”) at the Effective Time to distribute all of the outstanding shares of the applicable Spinco Common Stock then owned by IAC to holders of IAC Common Stock and IAC Class B Common Stock as of the applicable Distribution Record Date and, in accordance with the Employee Matters Agreement, to holders of Post-Record Date IAC Shares, and to credit the number of such shares of Spinco Common Stock to book-entry accounts for each such holder or designated transferee or transferees of such holder of IAC Common Stock or IAC Class B Common Stock. On the terms and subject to the conditions in this Agreement, each holder of IAC Common Stock or IAC Class B Common Stock on the applicable Distribution Record Date (or such holder’s designated transferee or transferees) will be entitled to receive in the applicable Distribution a fraction of a share of the applicable Spinco’s Spinco Common Stock equal to the applicable Distribution Ratio for each share of IAC Common Stock or IAC Class B Common Stock so held by such stockholder as of the applicable Distribution Record Date. No action by any such stockholder shall be necessary for such stockholder (or such stockholder’s designated transferee or transferees) to receive the applicable number of shares of Spinco Common Stock (and, if applicable, cash in lieu of any fractional shares) that such stockholder is entitled to receive in the applicable Distribution.

5.03. Fractional Shares. With respect to each Distribution, IAC stockholders holding a number of shares of IAC Common Stock or IAC Class B Common Stock on the applicable Distribution Record Date which would entitle such stockholders to receive other than a whole number of shares of the applicable Spinco Common Stock in such Distribution, will receive cash in lieu of such fractional shares. Fractional shares of Spinco Common Stock will not be distributed in any Distribution nor credited to book-entry accounts. The Agent shall, as soon as practicable after the applicable Distribution Date: (a) determine the number of whole shares and fractional shares of the applicable Spinco Common Stock to each holder of record as of close of business on the applicable Distribution Record Date, (b) aggregate all such fractional shares into whole shares and sell the whole shares obtained thereby in open market transactions as soon as practicable after the applicable Distribution Date, in each case, at then prevailing trading prices on behalf of holders who would otherwise be entitled to fractional share interests, and (c) distribute to each such holder, or for the benefit of each such beneficial owner, such holder or owner’s ratable share of the net proceeds of such sale, based upon the average gross selling price per share of applicable Spinco Common Stock, after making appropriate deductions for any amount required to be withheld for United States federal income tax purposes. Each Spinco shall bear the cost of brokerage fees incurred in connection with the sales of fractional shares of its Spinco Common Stock, which sales shall occur as soon after the applicable Distribution Date as practicable and as determined by the Agent. None of the Parties nor the Agent will guarantee any minimum sale price for fractional shares of Spinco Common Stock. None of the Parties will pay any interest on the proceeds from the sale of fractional shares. The Agent acting on behalf of the applicable Spinco will have the sole discretion to select the broker-dealers through which to sell the aggregated fractional shares and to determine when, how and at what price to sell such shares. Neither the Agent nor the broker-dealers through which the aggregated fractional shares are sold will be Affiliates of IAC or the applicable Spinco.

5.04. Actions in Connection with the Distributions. (a) Each Spinco shall file such amendments and supplements to its respective Registration Statement as IAC may

reasonably request, and such amendments as may be necessary in order to cause the same to become and remain effective as required by Applicable Law, including filing such amendments and supplements to its respective Registration Statement as may be required by the SEC or federal, state or foreign securities laws. IAC shall mail to the holders of IAC Common Stock and IAC Class B Common Stock, at such time on or prior to the applicable Distribution Date as IAC shall determine, the Prospectus forming a part of the applicable Registration Statement, as well as any other information concerning any of the Spincos, their business, operations and management, the Separation and such other matters as IAC shall reasonably determine are necessary and as may be required by Applicable Law.

(b) Each of the Spincos shall also cooperate with IAC in preparing, filing with the SEC and causing to become effective registration statements or amendments thereof which are required to reflect the establishment of, or amendments to, any employee benefit and other plans necessary or appropriate in connection with the Separation or other transactions contemplated by this Agreement and the Ancillary Agreements. Promptly after receiving a request from IAC, to the extent requested, each of HSN Spinco, Interval Spinco, TM Spinco and Tree Spinco, as applicable, shall prepare and, in accordance with Applicable Law, file with the SEC any such documentation that IAC determines is necessary or desirable to effectuate the Distributions, and IAC, HSN Spinco, Interval Spinco, TM Spinco and Tree Spinco shall each use commercially reasonable efforts to obtain all necessary approvals from the SEC with respect thereto as soon as practicable.

(c) Nothing in this Section 5.04 shall be deemed, by itself, to shift Liability for any portion of any Registration Statement or Prospectus to IAC.

(d) In addition to the covenants of the Spincos provided for elsewhere in this Agreement, each Spinco covenants and agrees with, and in favor of, IAC that it shall (i) cooperate with IAC in connection with IAC’s performance of its obligations under the Liberty Spinco Agreement with respect to such Spinco to be performed by IAC prior to the Effective Time, (ii) enter into a Liberty Spinco Assumption Agreement and a Liberty Registration Rights Agreement as contemplated by the Liberty Spinco Agreement and (iii) indemnify and hold IAC and the other members of the IAC Group harmless from and against all Liabilities incurred by them in connection with, arising out of or resulting from such Spinco’s performance or failure to perform its obligations under such agreements following the Effective Time.

5.05. Treatment of Integrated Warrant. Immediately following the Effective Time:

(a) the Old IAC Integrated Warrant shall by its terms, effective as of the Effective Time be adjusted (as so adjusted, the “New IAC Integrated Warrant”), represent the right to receive upon due exercise (w) a number of shares of IAC Common Stock equal to the number of shares of IAC Common Stock subject to the Old IAC Integrated Warrant immediately prior the Effective Time (the “Warrant Share Number”); (x) a number of shares of common stock of Expedia, Inc. (or substitutions therefor) as set forth in that certain Separation Agreement, dated as of August 9, 2005, between IAC and

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Spinco Common Stock of each Spinco whose Distribution is effected at such Effective Time as a given holder of IAC Common Stock would be entitled at the Effective Time had such holder held, on the applicable Distribution Record Date, a number of shares of IAC Common Stock equal to the Warrant Share Number; and

- (b) the exercise price of the New IAC Integrated Warrant will not change.

## ARTICLE VI MUTUAL RELEASES; INDEMNIFICATION

6.01. **Release of Pre-Distribution Claims.** (a) Except as provided in Section 6.01(f), effective as of the Effective Time, TM Spinco does hereby, on behalf of itself and each other member of the TM Group, their respective Affiliates (other than any member of any other Group), successors and assigns, and all Persons who at any time prior to the Effective Time have been stockholders (other than any member of any other Group), directors, officers, agents or employees of any member of the TM Group (in each case, in their respective capacities as such) (the “TM Releasers”), unequivocally, unconditionally and irrevocably release and discharge each of the other Separate-cos, the other members of the other Groups, their respective Affiliates (other than any member of the TM Group), successors and assigns, and all Persons who at any time prior to the Effective Time have been stockholders, directors, officers, agents or employees of any member of any other Group (in each case, in their respective capacities as such), and their respective heirs, executors, trustees, administrators, successors and assigns (the “Non-TM Parties”), from any and all Actions, causes of action, choses in action, cases, claims, suits, debts, dues, damages, judgments and liabilities, of any nature whatsoever, in law, at equity or otherwise, whether direct, derivative or otherwise, which have been asserted against a Non-TM Party or which, whether currently known or unknown, suspected or unsuspected, fixed or contingent, and whether or not concealed or hidden, the TM Releasers ever could have asserted or ever could assert, in any capacity, whether as partner, employer, agent or otherwise, either for itself or as an assignee, heir, executor, trustee, administrator, successor or otherwise for or on behalf of any other Person, against the Non-TM Parties, relating to any claims or transactions or occurrences whatsoever, up to but excluding the Effective Time, including in connection with the transactions and all activities to implement the Separation and the Distributions (“TM Claims”); and the TM Releasers hereby unequivocally, unconditionally and irrevocably agree not to initiate proceedings with respect to, or institute, assert or threaten to assert, any TM Claim.

(b) Except as provided in Section 6.01(f), effective as of the Effective Time, Interval Spinco does hereby, on behalf of itself and each other member of the Interval Group, their respective Affiliates (other than any member of any other Group), successors and assigns, and all Persons who at any time prior to the Effective Time have been stockholders (other than any member of any other Group), directors, officers, agents or employees of any member of the Interval Group (in each case, in their respective capacities as such) (the “Interval Releasers”), unequivocally, unconditionally and irrevocably release and discharge each of the other Separate-cos, the other members of the other Groups, their respective Affiliates (other than any member of the Interval Group), successors and assigns, and all Persons who at any time prior to the Effective Time have been stockholders, directors, officers, agents or employees of any member of any other Group (in each case, in their respective capacities as such), and their respective

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heirs, executors, trustees, administrators, successors and assigns (the “Non-Interval Parties”), from any and all Actions, causes of action, choses in action, cases, claims, suits, debts, dues, damages, judgments and liabilities, of any nature whatsoever, in law, at equity or otherwise, whether direct, derivative or otherwise, which have been asserted against a Non-Interval Party or which, whether currently known or unknown, suspected or unsuspected, fixed or contingent, and whether or not concealed or hidden, the Interval Releasers ever could have asserted or ever could assert, in any capacity, whether as partner, employer, agent or otherwise, either for itself or as an assignee, heir, executor, trustee, administrator, successor or otherwise for or on behalf of any other Person, against the Non-Interval Parties, relating to any claims or transactions or occurrences whatsoever, up to but excluding the Effective Time, including in connection with the transactions and all activities to implement the Separation and the Distributions (“Interval Claims”); and the Interval Releasers hereby unequivocally, unconditionally and irrevocably agree not to initiate proceedings with respect to, or institute, assert or threaten to assert, any Interval Claim.

(c) Except as provided in Section 6.01(f), effective as of the Effective Time, HSN Spinco does hereby, on behalf of itself and each other member of the HSN Group, their respective Affiliates (other than any member of any other Group), successors and assigns, and all Persons who at any time prior to the Effective Time have been stockholders (other than any member of any other Group), directors, officers, agents or employees of any member of the HSN Group (in each case, in their respective capacities as such) (the “HSN Releasers”), unequivocally, unconditionally and irrevocably release and discharge each of the other Separate-cos, the other members of the other Groups, their respective Affiliates (other than any member of the HSN Group), successors and assigns, and all Persons who at any time prior to the Effective Time have been stockholders, directors, officers, agents or employees of any member of any other Group (in each case, in their respective capacities as such), and their respective heirs, executors, trustees, administrators, successors and assigns (the “Non-HSN Parties”), from any and all Actions, causes of action, choses in action, cases, claims, suits, debts, dues, damages, judgments and liabilities, of any nature whatsoever, in law, at equity or otherwise, whether direct, derivative or otherwise, which have been asserted against a Non-HSN Party or which, whether currently known or unknown, suspected or unsuspected, fixed or contingent, and whether or not concealed or hidden, the HSN Releasers ever could have asserted or ever could assert, in any capacity, whether as partner, employer, agent or otherwise, either for itself or as an assignee, heir, executor, trustee, administrator, successor or otherwise for or on behalf of any other Person, against the Non-HSN Parties, relating to any claims or transactions or occurrences whatsoever, up to but excluding the Effective Time, including in connection with the transactions and all activities to implement the Separation and the Distributions (“HSN Claims”); and the HSN Releasers hereby unequivocally, unconditionally and irrevocably agree not to initiate proceedings with respect to, or institute, assert or threaten to assert, any HSN Claim.

(d) Except as provided in Section 6.01(f), effective as of the Effective Time, Tree Spinco does hereby, on behalf of itself and each other member of the Tree Group, their respective Affiliates (other than any member of any other Group), successors and assigns, and all Persons who at any time prior to the Effective Time have been stockholders (other than any member of any other Group), directors, officers, agents or employees of any member of the Tree Group (in each case, in their respective capacities as such) (the “Tree Releasers”), unequivocally, unconditionally and irrevocably release and discharge each of the other Separate-cos, the other

members of the other Groups, their respective Affiliates (other than any member of the Tree Group), successors and assigns, and all Persons who at any time prior to the Effective Time have been stockholders, directors, officers, agents or employees of any member of any other Group (in each case, in their respective capacities as such), and their respective heirs, executors, trustees, administrators, successors and assigns (the “Non-Tree Parties”), from any and all Actions, causes of action, choses in action, cases, claims, suits, debts, dues, damages, judgments and liabilities, of any nature whatsoever, in law, at equity or otherwise, whether direct, derivative or otherwise, which have been asserted against a Non-LT Party or which, whether currently known or unknown, suspected or unsuspected, fixed or contingent, and whether or not concealed or hidden, the Tree Releasers ever could have asserted or ever could assert, in any capacity, whether as partner, employer, agent or otherwise, either for itself or as an assignee, heir, executor, trustee, administrator, successor or otherwise for or on behalf of any other Person, against the Non-LT Parties, relating to any claims or transactions or occurrences whatsoever, up to but excluding the Effective Time, including in connection with the transactions and all activities to implement the Separation and the Distributions (“Tree Claims”); and the Tree Releasers hereby unequivocally, unconditionally and irrevocably agree not to initiate proceedings with respect to, or institute, assert or threaten to assert, any Tree Claim.

(e) Except as provided in Section 6.01(f), effective as of the Effective Time, IAC does hereby, on behalf of itself and each other member of the IAC Group, their respective Affiliates (other than any member of any Spinco Group), successors and assigns, and all Persons who at any time prior to the Effective Time have been stockholders, directors, officers, agents or employees of any member of the IAC Group (in each case, in their respective capacities as such) (the “IAC Releasers”), unequivocally, unconditionally and irrevocably release and discharge each of the Spincos, the other members of the Spinco Groups, their respective Affiliates (other than any member of the IAC Group), successors and assigns, and all Persons who at any time prior to the Effective Time have been stockholders (other than any member of the IAC Group), directors, officers, agents or employees of any member of any Spinco Group (in each case, in their respective capacities as such), and their respective heirs, executors, trustees, administrators, successors and assigns (the “Non-IAC Parties”), from any and all Actions, causes of action, choses in action, cases, claims, suits, debts, dues, damages, judgments and liabilities, of any nature whatsoever, in law, at equity or otherwise, whether direct, derivative or otherwise, which have been asserted against an Non-IAC Party or which, whether currently known or unknown, suspected or unsuspected, fixed or contingent, and whether or not concealed or hidden, the IAC Releasers ever could have asserted or ever could assert, in any capacity, whether as partner, employer, agent or otherwise, either for itself or as an assignee, heir, executor, trustee, administrator, successor or otherwise for or on behalf of any other Person, against the Non-IAC Parties, relating to any claims or transactions or occurrences whatsoever, up to but excluding the Effective Time including in connection with the transactions and all activities to implement the Separation and the Distributions (“IAC Claims”); and the IAC Releasers hereby unequivocally, unconditionally and irrevocably agree not to initiate proceedings with respect to, or institute, assert or threaten to assert, any IAC Claim.

(f) Nothing contained in Section 6.01(a), 6.01(b), 6.01(c), 6.01(d) or 6.01(e) shall impair any right of any Person to enforce this Agreement, any Ancillary Agreement or, any agreement, arrangement, commitment or understanding that is contemplated by Section 2.12 or any other agreement, arrangement, commitment or understanding that is entered into after the

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Effective Time among any member of any Group, on the one hand, and any member of any other Group, on the other hand, nor shall anything contained in those sections be interpreted as terminating as of the Effective Time any rights under any such agreements, contracts, commitments or understandings. For purposes of clarification, nothing contained in Section 6.01(a), 6.01(b), 6.01(c), 6.01(d) or 6.01(e) shall release any Person from:

- (i) any Liability provided in or resulting from this Agreement or any of the Ancillary Agreements;
- (ii) any Liability provided in or resulting from any agreement among any members of any Group that is contemplated by Section 2.13 (including for greater certainty, any Liability resulting or flowing from any breaches of such agreements that arose prior to the Effective Time);
- (iii) any Liability provided in or resulting from any other agreement, arrangement, commitment or understanding that is entered into after the Effective Time between any member of any Group, on the one hand, and any member of any other Group, on the other hand;
- (iv) (A) with respect to each Spinco, any Corresponding Liability of such Spinco and (B) with respect to IAC, any Retained Liability;
- (v) any Liability that the Parties may have with respect to indemnification or contribution pursuant to Article III or Section 5.04(d) of this Agreement or this Article VI for Third Party Claims;
- (vi) any Liability for unpaid Intercompany Accounts; or
- (vii) any Liability the release of which would result in the release of any Person other than a Person released pursuant to this Section 6.01.

In addition, nothing contained in Section 6.01(a), 6.01(b), 6.01(c), 6.01(d) or 6.01(e) hereof shall release any Separate-co from honoring its existing obligations to indemnify any director, officer or employee of any Group who was a director, officer or employee of such Separate-co on or prior to the Effective Time, to the extent that such director, officer or employee becomes a named defendant in any litigation involving such Separate-co and was entitled to such indemnification pursuant to then existing obligations.

(g) TM Spinco shall not make, and shall not permit any other member of the TM Group to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any other Separate-co or any member of any other Group or any other Person released pursuant to Section 6.01(a), with respect to any Liabilities released pursuant to Section 6.01(a).

(h) Interval Spinco shall not make, and shall not permit any other member of the Interval Group to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any other

Separate-co or any member of any other Group or any other Person released pursuant to Section 6.01(b), with respect to any Liabilities released pursuant to Section 6.01(b).

(i) HSN Spinco shall not make, and shall not permit any other member of the HSN Group to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any other Separate-co or any member of any other Group or any other Person released pursuant to Section 6.01(c), with respect to any Liabilities released pursuant to Section 6.01(c).

(j) Tree Spinco shall not make, and shall not permit any other member of the Tree Group to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any other Separate-co or any member of any other Group or any other Person released pursuant to Section 6.01(d), with respect to any Liabilities released pursuant to Section 6.01(d).

(k) IAC shall not make, and shall not permit any other member of the IAC Group to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any Spinco or any other member of any Spinco Group or any other Person released pursuant to Section 6.01(e), with respect to any Liabilities released pursuant to Section 6.01(e).

6.02. Indemnification by Spinco. Except as provided in Sections 6.04 and 6.05 and subject to Section 13.01, each Spinco shall, and shall cause the other members of its Corresponding Group to, fully indemnify, defend and hold harmless each other Separate-co, each other member of each other Group and each of their respective current and former directors, officers and employees, and each of the heirs, executors, trustees, administrators, successors and assigns of any of the foregoing (collectively, such Spinco's "Corresponding Other Separate-cos Indemnified Parties"), from and against any and all Liabilities of its Corresponding Other Separate-cos Indemnified Parties relating to, arising out of or resulting from any of the following items (without duplication):

(a) with respect to such Spinco, the Corresponding Business, any Corresponding Entity, any Corresponding Asset, any Corresponding Liability or, subject to Article III, any Deferred Spun Asset;

(b) any breach of, or failure to perform or comply with, any covenant, undertaking or obligation of, this Agreement or any of the Ancillary Agreements, by such Spinco or any other member of its Corresponding Group, subject to any limitation on liability set forth in any Ancillary Agreement for any such breach or failure to perform or comply with any covenant, undertaking or obligation under such Ancillary Agreement; and

(c) any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent relating to such Spinco's Corresponding Group or Corresponding Business contained in any Registration Statement or any other filings made with the SEC in connection with the Separation and the Distributions.

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6.03. Indemnification by IAC. Except as provided in Sections 6.04 and 6.05 and subject to Section 13.01, IAC shall indemnify, defend and hold harmless each Spinco, each other member of each Spinco Group and each of their respective current and former directors, officers and employees, and each of the heirs, executors, trustees, administrators, successors and assigns of any of the foregoing (collectively, the "Non-IAC Indemnified Parties"), from and against any and all Liabilities of the Non-IAC Indemnified Parties relating to, arising out of or resulting from any of the following items (without duplication):

(a) any Remaining IAC Business or any Retained Liability;

(b) any breach of, or failure to perform or comply with, any covenant, undertaking or obligation of, this Agreement or any of the Ancillary Agreements, by IAC or any other member of the IAC Group, subject to any limitation on liability set forth in any Ancillary Agreement for any such breach or failure to perform or comply with any covenant, undertaking or obligation under such Ancillary Agreement;

(c) except to the extent set forth in Section 6.02(c), any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, contained in any Registration Statement or Prospectus forming a part thereof; and

(d) any determination by a court of competent jurisdiction (whether or not in a final, non-appealable judgment) that any of the Spinco's has any liability (whether direct or indirect) for the payment of the IAC Notes; it being understood that in the event of any such determination, IAC shall be entitled to elect either of the following options: (1) IAC shall make arrangements that are reasonably satisfactory to any such Spinco to provide assurance that IAC has the financial wherewithal to promptly satisfy the IAC Notes or (2) IAC shall repay, redeem, satisfy and discharge, or otherwise retire the IAC Notes; provided, that if such determination could reasonably be expected to result in a default under any of such Spinco's indebtedness, then such Spinco shall be entitled to require IAC to exercise option (2) above.

6.04. Procedures for Indemnification of Third Party Claims. (a) All claims for indemnification relating to a Third Party Claim by any indemnified party (an "Indemnified Party") hereunder shall be asserted and resolved as set forth in this Section 6.04.

(b) In the event that any written claim or demand for which an indemnifying party (an "Indemnifying Party") may have liability to any Indemnified Party hereunder, is asserted against or sought to be collected from any Indemnified Party by a Third Party (a "Third Party Claim"), such Indemnified Party shall promptly, but in no event more than ten (10) days following such Indemnified Party's receipt of a Third Party Claim, notify the Indemnifying Party in writing of such Third Party Claim, the amount or the estimated amount of damages sought thereunder to the extent then ascertainable (which estimate shall not be conclusive of the final amount of such Third Party Claim), any other remedy sought thereunder, any relevant time constraints relating thereto and, to the extent practicable, and any other material details pertaining thereto (a "Claim Notice"); provided, however, that the failure to timely give a Claim Notice shall affect the rights of an Indemnified Party hereunder only to the extent that such failure has a material prejudicial effect on the defenses or other rights available to the

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Indemnifying Party with respect to such Third Party Claim. The Indemnifying Party shall have thirty (30) days (or such lesser number of days set forth in the Claim Notice as may be required by court proceeding in the event of a litigated matter) after receipt of the Claim Notice (the “Notice Period”) to notify the Indemnified Party whether it desires to defend the Indemnified Party against such Third Party Claim; provided that in the event a Claim Notice in respect of indemnification sought pursuant to Section 6.02(c) so specifies, the Indemnified Party shall have the right to require the Indemnifying Party, and in such event the Indemnifying Party shall be required, to defend the Indemnified Party against such Third Party Claim at the Indemnifying Party’s expense.

(c) In the event that the Indemnifying Party notifies the Indemnified Party within the Notice Period that it desires to defend the Indemnified Party against a Third Party Claim, the Indemnifying Party shall have the right to defend the Indemnified Party by appropriate proceedings and shall have the sole power to direct and control such defense, with counsel reasonably satisfactory to the Indemnified Party at the Indemnifying Party’s expense. Once the Indemnifying Party has duly assumed the defense of a Third Party Claim, the Indemnified Party shall have the right, but not the obligation, to participate in any such defense and to employ separate counsel of its choosing. The Indemnified Party shall participate in any such defense at its expense, provided that such expense shall be the responsibility of the Indemnifying Party if (i) the Indemnifying Party and the Indemnified Party are both named parties to the proceedings and the Indemnified Party shall have reasonably concluded that representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them (in which case the Indemnifying Party shall not be responsible for expenses in respect of more than one counsel for the Indemnified Party in any single jurisdiction), or (ii) the Indemnified Party assumes the defense of a Third Party Claim after the Indemnifying Party has failed to diligently defend a Third Party Claim it has assumed the defense of, as provided in the first sentence of this Section 6.04(c). The Indemnifying Party shall not, without the prior written consent of the Indemnified Party, settle, compromise or offer to settle or compromise any Third Party Claim on a basis that would result in (i) the imposition of a consent order, injunction or decree that would restrict the future activity or conduct of the Indemnified Party or any of its Affiliates, (ii) a finding or admission of a violation of Applicable Law or violation of the rights of any Person by the Indemnified Party or any of its Affiliates or (iii) a finding or admission that would have an adverse effect on other claims made or threatened against the Indemnified Party or any of its Affiliates.

(d) If the Indemnifying Party (i) elects not to defend the Indemnified Party against a Third Party Claim, whether by not giving the Indemnified Party timely notice of its desire to so defend or otherwise or (ii) after assuming the defense of a Third Party Claim or after receiving a Claim Notice specified in the proviso to the last sentence of Section 6.04(b), fails to take reasonable steps necessary to defend diligently such Third Party Claim within ten (10) days after receiving written notice from the Indemnified Party to the effect that the Indemnifying Party has so failed, the Indemnified Party shall have the right but not the obligation to assume its own defense; it being understood that the Indemnified Party’s right to indemnification for a Third Party Claim shall not be adversely affected by assuming the defense of such Third Party Claim. The Indemnified Party shall not settle a Third Party Claim without the consent of the Indemnifying Party, which consent shall not be unreasonably withheld.

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(e) The Indemnified Party and the Indemnifying Party shall cooperate in order to ensure the proper and adequate defense of a Third Party Claim, including by providing access to each other’s relevant business records and other documents, and employees; it being understood that the reasonable costs and expenses of the Indemnified Party relating thereto shall be Liabilities, subject to indemnification.

(f) The Indemnified Party and the Indemnifying Party shall use commercially reasonable efforts to avoid production of confidential information (consistent with Applicable Law), and to cause all communications among employees, counsel and others representing any party to a Third Party Claim to be made so as to preserve any applicable attorney-client or work-product privileges.

6.05. Procedures for Indemnification of Direct Claims. Any claim for indemnification made directly by the Indemnified Party against the Indemnifying Party that does not result from a Third Party Claim shall be asserted by written notice from the Indemnified Party to the Indemnifying Party specifically claiming indemnification hereunder. Such Indemnifying Party shall have a period of 45 days after the receipt of such notice within which to respond thereto. If such Indemnifying Party does not respond within such 45-day period, such Indemnifying Party shall be deemed to have accepted responsibility to make payment and shall have no further right to contest the validity of such claim. If such Indemnifying Party does respond within such 45-day period and rejects such claim in whole or in part, such Indemnified Party shall be free to pursue resolution as provided in Article IX.

6.06. Adjustments to Liabilities. (a) If an Indemnified Party receives any payment from an Indemnifying Party in respect of any Liabilities and the Indemnified Party could have recovered all or a part of such Liabilities from a Third Party (a “Potential Contributor”) based on the underlying claim or demand asserted against such Indemnifying Party, such Indemnified Party shall, to the extent permitted by Applicable Law, assign such of its rights to proceed against the Potential Contributor as are necessary to permit such Indemnifying Party to recover from the Potential Contributor the amount of such payment.

(b) If notwithstanding Section 6.06(a) an Indemnified Party receives an amount from a Third Party in respect of a Liability that is the subject of indemnification hereunder after all or a portion of such Liability has been paid by an Indemnifying Party pursuant to this Agreement, the Indemnified Party shall promptly remit to the Indemnifying Party the excess (if any) of (i) the amount paid by the Indemnifying Party in respect of such Liability, plus the amount received from the Third Party in respect thereof, over (ii) the full amount of the Liability.

(c) An insurer who would otherwise be obligated to pay any claim shall not be relieved of the responsibility with respect thereto or, solely by virtue of the indemnification provisions hereof, have any subrogation rights with respect thereto, it being expressly understood and agreed that no insurer or any other Third Party shall be entitled to a “wind-fall” (i.e., a benefit they would not be entitled to receive in the absence of the indemnification provisions) by virtue of the indemnification provisions hereof.

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6.07. Payments. The Indemnifying Party shall pay all amounts payable pursuant to this Article VI by wire transfer of immediately available funds, promptly following receipt from an Indemnified Party of a bill, together with all accompanying reasonably detailed backup documentation, for a Liability that is the subject of indemnification hereunder, unless the Indemnifying Party in good faith disputes the Liability, in which event it shall so notify the Indemnified Party. In any event, the Indemnifying Party shall pay to the Indemnified Party, by wire transfer of immediately available funds, the

amount of any Liability for which it is liable hereunder no later than three (3) days following any final determination of such Liability and the Indemnifying Party's liability therefor. A "final determination" shall exist when (a) the parties to the dispute have reached an agreement in writing, (b) a court of competent jurisdiction shall have entered a final and non-appealable order or judgment, or (c) an arbitration or like panel shall have rendered a final non-appealable determination with respect to disputes the parties have agreed to submit thereto.

6.08. Contribution. If the indemnification provided for in this Article VI shall, for any reason, be unavailable or insufficient to hold harmless the Indemnified Party hereunder in respect of any Liability, then each Indemnifying Party shall, in lieu of indemnifying such Indemnified Party, contribute to the amount paid or payable by such Indemnified Party as a result of such Liability, in such proportion as shall be sufficient to place the Indemnified Party in the same position as if such Indemnified Party were indemnified hereunder, the Parties intending that their respective contributions hereunder be as close as possible to the indemnification under Sections 6.02 and 6.03. If the contribution provided for in the previous sentence shall, for any reason, be unavailable or insufficient to put the Indemnified Party in the same position as if it were indemnified under Section 6.02 or 6.03, as the case may be, then the Indemnifying Party shall contribute to the amount paid or payable by such Indemnified Party as a result of such Liability, in such proportion as shall be appropriate to reflect the relative benefits received by and the relative fault of the Indemnifying Party on the one hand and the Indemnified Party on the other hand with respect to the matter giving rise to the Liability.

6.09. Remedies Cumulative. The remedies provided in this Article VI shall be cumulative and, subject to the provisions of Article IX, shall not preclude assertion by any Indemnified Party of any other rights or the seeking of any and all other remedies against any Indemnifying Party.

6.10. Survival of Indemnities. The rights and obligations of each of the Separate-cos and their respective Indemnified Parties under this Article VI shall survive the distribution, sale or other transfer by any Party of any Assets or the delegation or assignment by it of any Liabilities.

6.11. Shared Liabilities. Notwithstanding anything to the contrary contained in this Agreement:

(a) In order to facilitate the defense of any Shared Liability, the Parties agree that (i) the relevant Parties shall cooperate in the defense of any Shared Liability; (ii) each relevant Party shall be responsible for the costs of its own in-house counsel and other internal personnel in the defense of any Shared Liability; (iii) IAC shall be entitled to control the defense and/or settlement of any Shared Liability, although each relevant Spinco shall be entitled to

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observe with counsel of its own selection and at its own expense; provided, however, that after the Effective Time IAC shall not settle all or any portion of any Shared Liability unless any remaining Liability of any Spinco and its Affiliates and their respective current and former officers and directors relating to the Shared Liability will be fully released as a result of such settlement.

(b) The Parties agree to act in good faith and to use their reasonable best efforts to preserve and maximize the insurance benefits due to be provided under all policies of insurance and to cooperate with one another as necessary to permit each other to access or obtain the benefits under those policies; provided, however, that nothing hereunder shall be construed to prevent any party or any other Person from asserting claims for insurance benefits or accepting insurance benefits provided by the policies. The Parties agree to exchange information upon reasonable request of the other Party regarding requests that they have made for insurance benefits, notices of claims, occurrences and circumstances that they have submitted to the insurance companies or other entities managing the policies, responses they have received from those insurance companies or entities, including any payments they have received from the insurance companies and any agreements by the insurance companies to make payments, and any other information that the Parties may need to determine the status of the insurance policies and the continued availability of benefits thereunder.

(c) If any Party receives notice or otherwise learns of the assertion by any person or entity (including a Governmental Authority) of a Shared Liability, that Party shall give the other Parties written notice of such Shared Liability, providing notice of such Shared Liability in reasonable detail. The failure to give notice under this subsection shall not relieve any Party of its Liability for any Shared Liability except to the extent the Party is actually prejudiced by the failure to give such notice. The Parties shall be deemed to be on notice of any Shared Liability pending prior to the Effective Time.

## ARTICLE VII INSURANCE

7.01. Insurance Matters. (a) Each Spinco does hereby, for itself and each other member of its Corresponding Group, agree that no member of the IAC Group or any IAC Indemnified Party shall have any liability whatsoever as a result of the insurance policies and practices of IAC and its Affiliates as in effect at any time prior to the Effective Time, including as a result of the level or scope of any such insurance, the creditworthiness of any insurance carrier, the terms and conditions of any policy, the adequacy or timeliness of any notice to any insurance carrier with respect to any claim or potential claim or otherwise; provided this Section 7.01(a) shall not negate IAC's agreement under Section 7.01(b).

(b) IAC agrees to use its reasonable best efforts to cause the interest and rights of each Spinco and the other members of its Corresponding Group as of the Relevant Time as insureds or beneficiaries or in any other capacity under occurrence-based insurance policies and programs (and under claims-made policies and programs to the extent a claim has been submitted prior to the Relevant Time) of IAC or any other member of the IAC Group in respect of periods prior to the Relevant Time to survive the Relevant Time for the period for which such interests and rights would have survived without regard to the transactions contemplated hereby

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to the extent permitted by such policies, and IAC shall continue to administer such policies and programs on behalf of the relevant Spinco and the other relevant members of the Spinco Groups, subject to such Spinco's reimbursement to IAC and the other relevant members of the IAC Group for the actual out-of-pocket costs of such ongoing administration and the internal costs (based on the proportion of the amount of time actually spent on such matter to such employee's normal working time) of any employee or agent of IAC of any other relevant member of the IAC Group who will be required to spend at least ten percent of his or her normal working time over any ten (10) Business Days working with respect to any such matter on behalf of a Spinco or any member of its Corresponding Group. Any proceeds received by IAC or any other member of the IAC Group after the Relevant Time under such policies and programs in respect of a Spinco or other members of its Corresponding Group shall be for the benefit of such Spinco and such other members.

(c) This Agreement is not intended as an attempted assignment of any policy of insurance or as a contract of insurance and shall not be construed to waive any right or remedy of any member of the IAC Group in respect of any insurance policy or any other contract or policy of insurance.

(d) Nothing in this Agreement shall be deemed to restrict any member of any Spinco Group from acquiring at its own expense any other insurance policy in respect of any Liabilities or covering any period.

## ARTICLE VIII EXCHANGE OF INFORMATION; CONFIDENTIALITY

8.01. Agreement for Exchange of Information; Archives. (a) Without limiting any rights or obligations under any Ancillary Agreement between the Parties and/or any other member of their respective Groups relating to confidentiality, each Party agrees to provide, and to cause its Representatives, its Group members and its respective Group members' Representatives to provide, to the other Groups and any member thereof (a "Requesting Party"), at any time before, on or after the Effective Time, subject to the provisions of Section 8.04 and as soon as reasonably practicable after written request therefor, any Information within the possession or under the control of such Party or one of such Persons which the Requesting Party reasonably needs (i) to comply with reporting, disclosure, filing or other requirements imposed on the Requesting Party (including under applicable securities laws) by a Governmental Authority having jurisdiction over the Requesting Party, (ii) for use in any other judicial, regulatory, administrative or other proceeding or in order to satisfy audit, accounting, claims, regulatory, litigation or similar requirements of the Requesting Party, in each case other than claims or allegations that one Party to this Agreement or any of its Group members has or brings against the other Party or any of its Group members, or (iii) subject to the foregoing clause (ii) above, to comply with its obligations under this Agreement or any Ancillary Agreement; provided, however, that in the event that any Party determines that any such provision of Information could be commercially detrimental, violate any Applicable Law or agreement, or waive any attorney-client privilege, the Parties shall take all reasonable measures to permit the compliance with such obligations in a manner that avoids any such harm or consequence. More particularly, and without limitation to the generality of the foregoing sentence, the Parties agree

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that the provisions of the Tax Sharing Agreement shall govern with respect to the sharing of Information relating to Tax.

(b) After the Effective Time, each Spinco and the other members of its Spinco Group shall have access during regular business hours (as in effect from time to time), and upon reasonable advance notice, to the documents and objects of historical significance that relate to the Spun Businesses, the Spun Assets or the Spun Entities with respect to such Spinco and that are located in archives retained or maintained by (i) IAC or any other member of the IAC Group or (ii) by another Spinco or any other member of another Spinco Group. Each Spinco and the other members of its Spinco Group may obtain copies (but not originals) of documents for bona fide business purposes and may obtain objects for exhibition purposes for commercially reasonable periods of time if required for bona fide business purposes, provided that (i) such Spinco shall cause any such objects to be returned promptly, at such Spinco's expense, in the same condition in which they were delivered to such Spinco or to any member of its Spinco Group and (ii) such Spinco and the other members of its Spinco Group shall comply with any rules, procedures or other requirements, and shall be subject to any restrictions (including prohibitions on removal of specified objects), that are then applicable to such other Separate-co or such other member of such other Separate-co's Group. In any event, the foregoing shall not be deemed to restrict the access of IAC or any other member of the IAC Group to any such documents or objects. Nothing herein shall be deemed to impose any Liability on IAC or any other member of the IAC Group if documents or objects referred to in this Section 9.01 are not maintained or preserved by IAC or any other member of the IAC Group. Alternatively, IAC, acting reasonably, may request from any Spinco and any other member of such Spinco's Group that they provide IAC with reasonable advance notice, with a list of the requested Information that relates to the relevant Spun Businesses, the Spun Assets or the Spun Entities and IAC shall use, and shall cause the other members of the IAC Group that are in possession of the Information requested to use, commercially reasonable efforts to locate all requested Information that is owned or possessed by IAC or any of its Group members or Representatives. IAC will make available all such Information for inspection by the relevant Spinco or any other relevant member of any Spinco Group during normal business hours at the place of business reasonably designated by IAC. Subject to such confidentiality or security obligations as IAC or the other relevant members of its Group may reasonably deem necessary, the Spinco and the other relevant members of the Spinco Groups may have all requested Information duplicated. Alternatively, IAC or the other relevant members of the IAC Group may choose to deliver to a Spinco, at such Spinco's expense, all requested Information in the form reasonably requested by such Spinco or any other member of its Group. At IAC's request, such Spinco shall cause such Information when no longer needed to be returned to IAC at such Spinco's expense.

(c) With respect to the other Spinco Groups and the IAC Group, each Spinco shall make available and shall cause its Corresponding Group to make available to the other Spinco Groups and the IAC Group at least the level of access provided by the IAC Group under Section 8.01(b) to all Spinco Groups.

8.02. Ownership of Information. Any Information owned by a Party or any of its Group members and that is provided to a Requesting Party pursuant to Section 8.01 shall be deemed to remain the property of the providing party. Unless specifically set forth herein or in

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any Ancillary Agreement, nothing contained in this Agreement shall be construed as granting or conferring rights of license or otherwise in any such Information.

8.03. Compensation for Providing Information. The Party requesting Information agrees to reimburse the providing Party for the reasonable costs, if any, of creating, gathering and copying such Information, to the extent that such costs are incurred for the benefit of the Requesting Party. Except as may be otherwise specifically provided elsewhere in this Agreement, in the Ancillary Agreements, or in any other agreement between the Parties, such costs shall be computed in accordance with the providing Party's standard methodology and procedures.

8.04. Record Retention. To facilitate the possible exchange of Information pursuant to this Article VIII and other provisions of this Agreement after the Effective Time, the Parties agree to use commercially reasonable efforts to retain, and to cause the members of their respective Group to retain, all Information in their respective possession or control at the Effective Time in accordance with the policies of the IAC Group as in effect at the Effective Time or such other policies as may be reasonably adopted by the appropriate Party after the Effective Time. No Party will destroy, or permit any member of its Group to destroy, any Information which another Party or any member of its Group may have the right to obtain pursuant to this Agreement

prior to the fifth (5th) anniversary of the Effective Time without first using commercially reasonable efforts to notify such other Party of the proposed destruction and giving such other Party the opportunity to take possession of such Information prior to such destruction.

8.05. Other Agreements Providing for Exchange of Information. The rights and obligations granted or created under this Article VIII are subject to any specific limitations, qualifications or additional provisions on the sharing, exchange, retention or confidential treatment of Information set forth in any Ancillary Agreement.

8.06. Production of Witnesses; Records; Cooperation. (a) After the Effective Time, but only with respect to a Third Party Claim, each Party hereto shall use commercially reasonable efforts to, and shall cause the other relevant members of its Group to use commercially reasonable efforts to, make available to a requesting Party or any member of the Group to which such Requesting Party belongs, upon written request, its then former and current Representatives (and the former and current Representatives of its respective Group members) as witnesses and any books, records or other documents within its control (or that of its respective Group members) or which it (or its respective Group members) otherwise has the ability to make available, to the extent that any such person (giving consideration to business demands of such Representatives) or books, records or other documents may reasonably be required in connection with any Action in which the Requesting Party may from time to time be involved, regardless of whether such Action is a matter with respect to which indemnification may be sought hereunder. The Requesting Party shall bear all costs and expenses in connection therewith.

(b) If a Party, being entitled to do so under this Agreement, chooses to defend or to seek to settle or compromise any Third Party Claim, the other relevant Party or Parties shall use commercially reasonable efforts to make available to such Party, upon written request, its or their then former and current Representatives and those of its or their respective Group members

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as witnesses and any books, records or other documents within its or their control (or that of its or their respective Group members) or which it or they (or its or their respective Group members) otherwise has or have the ability to make available, to the extent that any such Person (giving consideration to business demands of such Representatives) or books, records or other documents may reasonably be required in connection with such defense, settlement or compromise, as the case may be, and shall otherwise cooperate in such defense, settlement or compromise, as the case may be.

(c) Without limiting the foregoing, the Parties shall cooperate and consult, and shall cause their respective Group members to cooperate and consult, to the extent reasonably necessary with respect to any Actions (except in the case of an Action by one Party against another).

(d) The obligation of the Parties to provide witnesses pursuant to this Section 8.06 is intended to be interpreted in a manner so as to facilitate cooperation and shall include the obligation to provide as witnesses inventors and other employees without regard to whether the witness or the employer of the witness could assert a possible business conflict (subject to the limitation set forth in the first sentence of Section 8.06(a) regarding Third Party Claims).

(e) In connection with any matter contemplated by this Section 8.06, the relevant Parties will enter into, and shall cause all other relevant members of their respective Groups to enter into, a mutually acceptable joint defense agreement so as to maintain to the extent practicable any applicable attorney-client privilege or work-product privileges of any member of any Group.

8.07. Confidentiality. (a) Subject to Section 8.08, each Separate-co shall hold, and shall cause its respective Group members and its respective Affiliates (whether now an Affiliate or hereafter becoming an Affiliate) and its Representatives to hold, in strict confidence, with at least the same degree of care that applies to IAC's confidential and proprietary Information pursuant to policies in effect as of the Effective Time, all confidential and proprietary Information concerning another Group (or any member thereof) that is either in such Separate-co's possession (including Information in its possession prior to the date hereof) or furnished by any other Group (or any member thereof) or by any of such other Group's Affiliates (whether now an Affiliate or hereafter becoming an Affiliate) or their respective Representatives at any time pursuant to this Agreement or any Ancillary Agreement or the transactions contemplated hereby or thereby (any such Information referred to herein as "Confidential Information"), and shall not use, and shall cause its respective Group members, Affiliates and Representatives not to use, any such Confidential Information other than for such purposes as shall be expressly permitted hereunder or thereunder. Notwithstanding the foregoing, Confidential Information shall not include Information that is or was (i) in the public domain other than by the breach of this Agreement or by breach of any other agreement relating to confidentiality between or among the relevant Parties and/or their respective Group members, their respective Affiliates or Representatives, (ii) lawfully acquired by such disclosing Party (or any member of the Group to which such Party belongs or any of such Party's Affiliates) from a Third Party not bound by a confidentiality obligation, or (iii) independently generated or developed by Persons who do not have access to, or descriptions of, any such confidential or

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proprietary Information of the other Parties (or any member of the Group to which such other Party belongs).

(b) Each Party shall maintain, and shall cause its respective Group members to maintain, policies and procedures, and develop such further policies and procedures as will from time to time become necessary or appropriate, to ensure compliance with Section 8.07(a).

(c) Each Party agrees not to release or disclose, or permit to be released or disclosed, any Confidential Information to any other Person, except its Representatives who need to know such Confidential Information (who shall be advised of their obligations hereunder with respect to such Confidential Information), except in compliance with Section 8.08. Without limiting the foregoing, when any Information furnished by another Party after the Effective Time pursuant to this Agreement or any Ancillary Agreement is no longer needed for the purposes contemplated by this Agreement or any Ancillary Agreement, such Party will promptly, after request of the furnishing Party and at the election of the Party receiving such request, destroy or return to the furnishing Party all such Information in a printed or otherwise tangible form (including all copies thereof and all notes, extracts or summaries based thereon), and destroy all Information in an electronic or otherwise intangible form and certify to the furnishing Party that it has destroyed such Information (and such copies thereof and such notes, extracts or summaries based thereon). Notwithstanding the foregoing, the Parties agree that to the extent some Information to be destroyed or returned is retained as data or records for the purpose of business continuity planning or is otherwise not accessible in the Ordinary Course of Business, such data or records shall be destroyed in the Ordinary Course of Business in accordance, if applicable, with the business continuity plan of the applicable Party.

8.08. Protective Arrangements. In the event that any Party or any member of its Group or any Affiliate of such Party or any of their respective Representatives either determines that it is required to disclose any Confidential Information (the “Disclosing Party”) pursuant to Applicable Law or receives any demand under lawful process or from any Governmental Authority to disclose or provide Confidential Information of another Party (or any member of the Group to which such other Party belongs) (the “Providing Party”), the Disclosing Party shall, to the extent permitted by Applicable Law, promptly notify the Providing Party prior to the Disclosing Party disclosing or providing such Confidential Information and shall use commercially reasonable efforts to cooperate with the Providing Party so that the Providing Party may seek any reasonable protective arrangements or other appropriate remedy and/or waive compliance with this Section 8.08. All expenses reasonably incurred by the Disclosing Party in seeking a protective order or other remedy will be borne by the Providing Party. Subject to the foregoing, the Disclosing Party may thereafter disclose or provide such Confidential Information to the extent (but only to the extent) required by such Applicable Law (as so advised by legal counsel) or by lawful process or by such Governmental Authority and shall promptly provide the Providing Party with a copy of the Confidential Information so disclosed, in the same form and format as disclosed, together with a list of all Persons to whom such Confidential Information was disclosed.

8.09. Disclosure of Third Party Information. Each Spinco acknowledges that it and the other members of its respective Group may have in its or their possession confidential or proprietary Information of Third Parties that was received under confidentiality or non-disclosure

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agreements with such Third Party while it or they were part of the IAC Group. Each Spinco will hold, and will cause the other members of its Group and its and their respective Representatives to hold, in strict confidence the confidential and proprietary Information of Third Parties to which such Spinco or any other member of its respective Group has access, in accordance with the terms of any agreements entered into prior to the Effective Time between one or more members of another Group (whether acting through, on behalf of, or in connection with, the Spun Businesses) and such Third Parties.

## ARTICLE IX DISPUTE RESOLUTION

### 9.01. Interpretation; Agreement to Resolve Disputes.

(a) In the event of any ambiguous provision in this Agreement or in any Ancillary Agreement, or any inconsistency or conflict between or among the provisions of this Agreement and one or more Ancillary Agreements or between or among the provisions of the Ancillary Agreements, IAC’s interpretation of such ambiguity or resolution of such inconsistency or conflict shall be final and binding unless such interpretation or resolution is unreasonable or clearly erroneous; it being understood and agreed that the reasonableness of an interpretation or resolution shall be assessed without regard to whether such interpretation or resolution happens to be in IAC’s self-interest.

(b) Except as otherwise specifically provided in any Ancillary Agreement, the procedures for discussion, negotiation and dispute resolution set forth in this Article IX shall apply to all disputes, controversies or claims (whether sounding in contract, tort or otherwise) that may arise out of or relate to, or arise under or in connection with this Agreement or any Ancillary Agreement, or the transactions contemplated hereby or thereby (including all actions taken in furtherance of the transactions contemplated hereby or thereby on or prior to the date hereof), or the commercial or economic relationship of the Parties relating hereto or thereto, between or among any member of any Group on the one hand and any other Group on the other hand. Each Party agrees on behalf of itself and each member of its respective Group that the procedures set forth in this Article IX shall be the sole and exclusive procedures in connection with any dispute, controversy or claim relating to any of the foregoing matters and irrevocably waives any right to commence any Action in or before any Governmental Authority, except as otherwise required by Applicable Law.

9.02. Dispute Resolution; Mediation. (a) Any Party (a “Claimant Party”) may commence the dispute resolution process of this Section 9.02 by giving the other Party or Parties with whom there is such a controversy, claim or dispute written notice (a “Dispute Notice”) of any controversy, claim or dispute of whatever nature arising out of or relating to this Agreement or the breach, termination, enforceability or validity thereof (a “Dispute”) which has not been resolved in the normal course of business. The relevant Parties shall attempt in good faith to resolve any Dispute by negotiation among executives of such Parties (“Senior Party Representatives”) who have authority to settle the Dispute and who are at a higher level of management than the persons who have direct responsibility for the administration of this Agreement. Within 15 days after delivery of the Dispute Notice, the receiving Party or Parties (the “Responding Parties” and, together with the Claimant Party, the “Dispute Parties”) shall

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submit to the other Dispute Party or Parties a written response (the “Response”). The Dispute Notice and the Response shall include (i) a statement setting forth the position of the Dispute Party giving such notice and a summary of arguments supporting such position and (ii) the name and title of such Dispute Party’s Senior Party Representative and any other persons who will accompany the Senior Party Representative at the meeting at which the Dispute Parties will attempt to settle the Dispute. Within 30 days after the delivery of the Dispute Notice, the Senior Party Representatives of the Dispute Parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the Dispute. The Dispute Parties shall cooperate in good faith with respect to any reasonable requests for exchanges of information regarding the Dispute or a Response thereto.

(b) If the Dispute has not been resolved within 60 days after delivery of the Dispute Notice, or if the Dispute Parties fail to meet within 30 days after delivery of the Dispute Notice as hereinabove provided, the Dispute Parties shall make a good faith attempt to settle the Dispute by mediation pursuant to the provisions of this Section 9.02 before resorting to arbitration contemplated by Section 9.03 or any other dispute resolution procedure that may be agreed by the Dispute Parties.

(c) All negotiations, conferences and discussions pursuant to this Section 9.02 shall be confidential and shall be treated as compromise and settlement negotiations. Nothing said or disclosed, nor any document produced, in the course of such negotiations, conferences and discussions that is not otherwise independently discoverable shall be offered or received as evidence or used for impeachment or for any other purpose in any current or future arbitration.

(d) Unless the Dispute Parties agree otherwise, the mediation shall be conducted in accordance with the CPR Institute for Dispute Resolution Model Procedure for Mediation of Business Disputes in effect on the date of this Agreement by a mediator selected by the Dispute Parties.

(e) Within 30 days after the mediator has been selected as provided above, all Dispute Parties and their respective attorneys shall meet with the mediator for one mediation session of at least four hours, it being agreed that each representative of a Dispute Party attending such mediation session shall be a Senior Party Representative with authority to settle the Dispute. If the Dispute cannot be settled at such mediation session or at any mutually agreed continuation thereof, any of the Dispute Parties may give the other and the mediator a written notice declaring the mediation process at an end.

9.03. Arbitration. If the Dispute has not been resolved by the dispute resolution process described in Section 9.02, the Dispute Parties agree that any such Dispute shall be settled by binding arbitration before the American Arbitration Association (“AAA”) in Wilmington, Delaware pursuant to the Commercial Rules of the AAA. Any arbitrator(s) selected to resolve the Dispute shall be bound exclusively by the laws of the State of Delaware without regard to its choice of law rules. Any decisions of award of the arbitrator(s) will be final and binding upon the Dispute Parties and may be entered as a judgment by the Dispute Parties hereto. Any rights to appeal or review such award by any court or tribunal are hereby waived to the extent permitted by law.

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9.04. Costs. The costs of any mediation or arbitration pursuant to this Article IX shall be shared equally among the Dispute Parties.

9.05. Continuity of Service and Performance. Unless otherwise agreed in writing, the Dispute Parties will continue to provide service and honor all other commitments under this Agreement and each Ancillary Agreement during the course of dispute resolution pursuant to the provisions of this Article IX with respect to all matters not subject to such dispute, controversy or claim.

## ARTICLE X FURTHER ASSURANCES

10.01. Further Assurances. (a) Except as provided in Section 12.01, each Party covenants with and in favor of the other Parties as follows:

(i) prior to, on and after the Effective Time, each Party hereto shall, and shall cause the other relevant members of its Group to, cooperate with the other Parties, and without any further consideration, but at the expense of the requesting Party, to execute, acknowledge and deliver, or use commercially reasonable efforts to cause to be executed and delivered, all instruments, assurances or documents, including instruments of conveyance, assignments and transfers, and to make all filings with, and to obtain all consents, approvals or authorizations of, any Governmental Authority or any other Person under any permit, license, agreement, indenture or other instrument (including any Consents or Governmental Authorizations), and to take all such other actions as such Party may reasonably be requested to take by the requesting Party (or any member of its Group) from time to time, consistent with the terms of this Agreement and the Ancillary Agreements, in order to give effect to the provisions, obligations and purposes of this Agreement and the Ancillary Agreements and the transfers of the Spun Businesses and of the Spun Assets and the assignment and assumption of the Spun Liabilities and the other transactions contemplated hereby and thereby; and

(ii) to the extent that IAC or any Spinco discovers at any time following the Effective Time any Asset that was intended to be transferred to any Separate-co or any other member of another Spinco Group pursuant to this Agreement was not so transferred at the Effective Time, IAC and the Spinco shall, or shall cause the other relevant members of their Corresponding Groups to promptly, assign and transfer to such Separate-co or another member of such Separate-co's Group reasonably designated by such Separate-co such Asset and all right, title and interest therein in a manner and on the terms consistent with the relevant provisions of this Agreement, including, without limitation, Section 2.17(b). Similarly, to the extent that IAC or any Spinco discovers at any time following the Effective Time any Asset that was intended to be retained by IAC or any other member of the IAC Group was not so retained at the Effective Time, the relevant Spinco shall, or shall cause the other relevant members of its Group to promptly to, assign and transfer to IAC or any other member of the IAC Group reasonably designated by IAC such Asset and all right, title and interest therein in a manner and on the terms consistent with the relevant provisions of this Agreement, including, without limitation, Section 2.17(b). For the avoidance of doubt, the transfer of any Assets under

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this paragraph (a) shall be effected without any additional consideration by any Party hereunder (such deferred transfers being referred to as “Deferred Transactions”).

(b) On or prior to the Effective Time, each of the Separate-cos, in their respective capacities as direct and indirect parent companies of the members of their respective Groups, shall each approve or ratify any actions of the members of their respective Groups as may be necessary or desirable to give effect to the transactions contemplated by this Agreement and the Ancillary Agreements.

(c) Prior to the Effective Time, if a Party identifies any commercial or other service that is needed to assure a smooth and orderly transition of the businesses in connection with the consummation of the transactions contemplated hereby, and that is not otherwise governed by the provisions of this Agreement or any Ancillary Agreement, the relevant Parties will cooperate in determining whether there is a mutually acceptable arms' length basis on which the such Party can provide such service.

## ARTICLE XI CERTAIN OTHER MATTERS

11.01. Auditors and Audits; Annual and Quarterly Financial Statements and Accounting. Each Party agrees that during the one hundred and eighty (180) days following the Effective Time and in any event solely with respect to the preparation and audit of each of IAC's and each Spinco's financial statements for the year ended December 31, 2008, the printing, filing and public dissemination of such financial statements, the audit of IAC's internal control over financial reporting and management's assessment thereof and management's assessment of IAC's disclosure controls and procedures, in each case made as of December 31, 2008:

(a) Date of Spinco Auditors' Opinions. Each Spinco shall use commercially reasonable efforts to enable such Spinco's auditors (in each case, such auditors, the “Spinco Auditor”) to complete their audit such that they will date their opinion on such Spinco's audited annual financial statements on the same date that the IAC's auditors (the “IAC Auditor”) date their opinion on IAC's audited annual financial statements (except to the extent

an earlier date is necessary to comply with SEC rules), and to enable IAC to meet its timetable for the printing, filing and public dissemination of IAC's annual financial statements.

(b) Annual Financial Statements. Each (i) Separate-co shall provide to the other Separate-cos on a timely basis all Information reasonably required to meet such Separate-co's schedule for the preparation, printing, filing, and public dissemination of its annual financial statements and for management's assessment of the effectiveness of its disclosure controls and procedures in accordance with Item 307 of Regulation S-K and (ii) each Spinco shall provide to the IAC on a timely basis all Information reasonably required to meet IAC's schedule for its report on internal control over financial reporting in accordance with Item 308 of Regulation S-K and its auditor's audit of its internal control over financial reporting and management's assessment thereof in accordance with Section 404 of the Sarbanes-Oxley Act of 2002 and the SEC's and Public Company Accounting Oversight Board's rules and auditing standards thereunder (such assessments and audit being referred to as the "2008 Internal Control Audit and Management Assessments"). Without limiting the generality of the foregoing, each Separate-co

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will provide all required financial and other Information with respect to such Separate-co and its Subsidiaries to its respective auditors in a sufficient and reasonable time and in sufficient detail to permit its respective auditors to take all steps and perform all reviews necessary to provide sufficient assistance to the IAC Auditor and each other Spinco Auditor with respect to respective Information to be included or contained in the annual financial statements of such other Separate-co and to permit the IAC Auditor and IAC's management to all complete the 2008 Internal Control Audit and Management Assessments.

(c) Access to Personnel and Books and Records.

(i) Each Spinco (an "Authorizing Spinco") shall authorize its respective Spinco Auditor (the "Authorized Auditor") to make available to each of the IAC Auditor and the Spinco Auditor of each other Spinco both the personnel who performed or are performing the annual audits of the Authorizing Spinco and work papers related to the annual audits of the Authorizing Spinco, in all cases within a reasonable time prior to the Authorized Auditor's opinion date, so that (A) the IAC Auditor is able to perform the procedures it considers necessary to take responsibility for the work of the Authorized Auditor as it relates to the IAC Auditor's report on IAC's financial statements, all within sufficient time to enable IAC to meet its timetable for the printing, filing and public dissemination of IAC's annual financial statements; and (B) each such other Spinco Auditor is able to perform the procedures it considers necessary to take responsibility for the work of the Authorized Auditor as it relates to the relevant Spinco Auditor's report on such Spinco's financial statements, all within sufficient time to enable such Spinco to meet its timetable for the printing, filing and public dissemination of such Spinco's annual financial statements.

(ii) IAC shall authorize the IAC Auditor to make available to each Spinco Auditor both the personnel who performed or are performing the annual audits of IAC and work papers related to the annual audits of IAC, in all cases within a reasonable time prior to the IAC Auditor's opinion date, so that each Spinco Auditor is able to perform the procedures it considers necessary to take responsibility for the work of the IAC Auditor as it relates to such Spinco Auditor's report on the relevant Spinco's financial statements, all within sufficient time to enable such Spinco to meet its timetable for the printing, filing and public dissemination of such Spinco's annual financial statements.

(iii) Each Spinco shall make available to the IAC Auditor and IAC's management such Spinco's personnel and such Spinco's books and records in a reasonable time prior to the IAC Auditor's opinion date and IAC's management's assessment date so that the IAC Auditor and IAC's management are able to perform the procedures they consider necessary to conduct the 2008 Internal Control Audit and Management Assessments.

(d) Spinco Annual Reports. Each Spinco will deliver to IAC a substantially final draft, as soon as the same is prepared, of the first report to be filed with the SEC that includes such Spinco's audited financial statements for the year ended December 31, 2008 (such Spinco's "Corresponding Annual Report"); provided, however, that a Spinco may continue to

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revise such Corresponding Annual Report prior to the filing thereof, which changes will be delivered to IAC as soon as reasonably practicable; provided, further, that the respective personnel of IAC and each Spinco will actively consult with each other regarding any changes which a Spinco may consider making to its Corresponding Annual Report and related disclosures prior to the anticipated filing with the SEC, with particular focus on any changes which would have an effect upon IAC's financial statements or related disclosures.

Nothing in this Section 11.01 shall require any Party to violate any agreement with any Third Party regarding the confidentiality of confidential and proprietary Information relating to that Third Party or its business; provided, however, that in the event that a Party is required under this Section 11.01 to disclose any such Information, such Party shall use commercially reasonable efforts to seek to obtain such Third Party Consent to the disclosure of such Information.

## ARTICLE XII SOLE DISCRETION OF IAC; TERMINATION

12.01. Sole Discretion of IAC. Notwithstanding any other provision of this Agreement, until the occurrence of the applicable Relevant Time, IAC shall have the sole and absolute discretion:

(a) to determine whether to proceed with all or any part of the Separation, including any Separation Transaction, or any or all of the Distributions, and to determine the timing of and any and all conditions to the completion of the Separation and the Distributions or any part thereof or of any other transaction contemplated by this Agreement; and

(b) to amend or otherwise change, delete or supplement, from time to time, any term or element of the Separation, including any Separation Transaction, or any or all of the Distributions or any other transaction contemplated by this Agreement.

12.02. Termination. (a) This Agreement and all Ancillary Agreements may be terminated and the transactions contemplated hereby may be amended, supplemented, modified or abandoned in any respect at any time prior to the Effective Time of the first Distribution to occur, by and in the sole and absolute discretion of IAC without the approval of any Spinco or of the stockholders of IAC. In the event of such termination, no Party shall have any liability of any kind to any other Party or any other Person.

(b) After the Effective Time of the first Distribution to occur, this Agreement may not be terminated to the extent the rights and obligations provided for hereunder are between and among IAC and those Spinco's the Distribution of which shall have previously occurred except by an agreement in writing signed by the relevant Parties; provided, that IAC in its sole discretion may abandon one or more of the Distributions the Distribution date of which shall not yet have occurred and, by notice to the other Spinco's, shall have the right to terminate (subject to the last sentence of Section 1.04(b)) this Agreement and the Ancillary Agreements to the extent of the rights and obligations provided between the Spinco(s) the Distribution of which shall have been abandoned and the Spinco's the Distribution of which shall have previously occurred.

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### ARTICLE XIII MISCELLANEOUS

13.01. Limitation of Liability. In no event shall any member of any Group be liable to any member of any other Group for any special, consequential, indirect, collateral, incidental or punitive damages or lost profits or failure to realize expected savings or other commercial or economic loss of any kind, however caused and on any theory of liability (including negligence) arising in any way out of this Agreement, whether or not such Person has been advised of the possibility of any such damages; provided, however, that the foregoing limitations shall not limit any Party's indemnification obligations for Liabilities with respect to Third Party Claims as set forth in Article VI. The provisions of Article IX shall be the Parties' sole recourse for any breach hereof or any breach of the Ancillary Agreements.

13.02. Counterparts. This Agreement and each Ancillary Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties thereto and delivered to the other party or parties.

13.03. Entire Agreement. This Agreement, the Ancillary Agreements, and the Schedules and Exhibits hereto and thereto and the specific agreements contemplated hereby or thereby contain the entire agreement between the Parties with respect to the subject matter hereof and supersede all previous agreements, oral or written, negotiations, discussions, writings, understandings, commitments and conversations with respect to such subject matter. No agreements or understandings exist between the Parties other than those set forth or referred to herein or therein.

13.04. Construction. In this Agreement and each of the Ancillary Agreements, unless a clear contrary intention appears:

(a) the singular number includes the plural number and vice versa;

(b) reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are not prohibited by this Agreement or the relevant Ancillary Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;

(c) reference to any gender includes each other gender;

(d) reference to any agreement, document or instrument means such agreement, document or instrument as amended, modified, supplemented or restated, and in effect from time to time in accordance with the terms thereof subject to compliance with the requirements set forth herein or in the relevant Ancillary Agreement;

(e) reference to any Applicable Law means such Applicable Law as amended, modified, codified, replaced or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder, and reference to any section or other provision of any Applicable Law means that provision of such Applicable Law from time to time

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in effect and constituting the substantive amendment, modification, codification, replacement or reenactment of such section or other provision;

(f) "herein," "hereby," "hereunder," "hereof," "hereto" and words of similar import shall be deemed references to this Agreement or to the relevant Ancillary Agreement as a whole and not to any particular article, section or other provision hereof or thereof;

(g) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term;

(h) the Table of Contents and headings are for convenience of reference only and shall not affect the construction or interpretation hereof or thereof;

(i) with respect to the determination of any period of time, "from" means "from and including" and "to" means "to but excluding;" and

(j) references to documents, instruments or agreements shall be deemed to refer as well to all addenda, exhibits, schedules or amendments thereto.

13.05. Signatures. Each Party acknowledges that it and the other Party (and the other members of their respective Groups) may execute certain of the Ancillary Agreements by facsimile, stamp or mechanical signature. Each Party expressly adopts and confirms each such facsimile, stamp or

mechanical signature made in its respective name (or that of the applicable member of its Group) as if it were a manual signature, agrees that it will not assert that any such signature is not adequate to bind such Party to the same extent as if it were signed manually and agrees that at the reasonable request of the other Party at any time it will as promptly as reasonably practicable cause each such Ancillary Agreement to be manually executed (any such execution to be as of the date of the initial date thereof).

13.06. Assignability. Except as set forth in any Ancillary Agreement, this Agreement and each Ancillary Agreement shall be binding upon and inure to the benefit of the Parties hereto and thereto, respectively, and their respective successors and assigns; provided, however, that except as specifically provided in any Ancillary Agreement, no Party hereto or thereto may assign its respective rights or delegate its respective obligations under this Agreement or any Ancillary Agreement without the express prior written consent of the other parties hereto or thereto.

13.07. Third Party Beneficiaries. Except for the indemnification rights under this Agreement of any Corresponding Indemnified Party in its capacity as such and for the release under Section 6.01 of any Person provided therein and except as specifically provided in any Ancillary Agreement, (a) the provisions of this Agreement and each Ancillary Agreement are solely for the benefit of the parties hereto and thereto and their respective successors and permitted assigns and are not intended to confer upon any Person, except the parties hereto and thereto and their respective successors and permitted assigns, any rights or remedies hereunder and (b) there are no third party beneficiaries of this Agreement or any Ancillary Agreement; and neither this Agreement nor any Ancillary Agreement shall provide any Third Party with any remedy, claim, liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement or any Ancillary Agreement.

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13.08. Payment Terms. (a) Except as expressly provided to the contrary in this Agreement or in any Ancillary Agreement, any amount to be paid or reimbursed by one Party to the other under this Agreement shall be paid or reimbursed hereunder within thirty (30) days after presentation of an invoice or a written demand therefor and setting forth, or accompanied by, reasonable documentation or other reasonable explanation supporting such amount.

(b) Except as expressly provided to the contrary in this Agreement or in any Ancillary Agreement, any amount not paid when due pursuant to this Agreement (and any amount billed or otherwise invoiced or demanded and properly payable that is not paid within thirty (30) days of such bill, invoice or other demand) shall bear interest at a rate per annum equal to the Prime Rate plus 2% (or the maximum legal rate, whichever is lower), calculated for the actual number of days elapsed, accrued from the date on which such payment was due up to the date of the actual receipt of payment.

13.09. Governing Law. Except as set forth in Article IX, this Agreement and each Ancillary Agreement, shall be governed by and construed and interpreted in accordance with the internal laws of the State of Delaware, irrespective of the choice of laws principles of the State of Delaware, as to all matters, including matters of validity, construction, effect, enforceability, performance and remedies.

13.10. Notices. All notices or other communications under this Agreement and, unless expressly provided therein, each Ancillary Agreement, shall be in writing and shall be deemed to be duly given when delivered in person or successfully transmitted by facsimile, addressed as follows:

If to IAC, to:

IAC/InterActiveCorp  
555 West 18th Street  
New York, NY 10011  
Attention: General Counsel  
Telecopier: (212) 632-9642

with a copy to:

Wachtell, Lipton, Rosen & Katz  
51 West 52nd Street  
New York, NY 10019  
Attention: Pamela S. Seymon, Esq.  
Telecopier: (212) 403-2000

If to TM Spinco:

Ticketmaster  
8800 Sunset Boulevard  
West Hollywood, California 90069  
Attention: General Counsel  
Telecopier: (310) -

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with a copy to:

[ ]

If to Interval Spinco:

Interval Leisure Group, Inc.  
6262 Sunset Drive  
Miami, Florida 33143  
Attention: General Counsel

Telecopier: (305) -

with a copy to:

[ ]

If to HSN Spinco:

1 HSN Drive  
St. Petersburg, Florida 33729  
Attention: General Counsel  
Telecopier: (727) -

with a copy to:

[ ]

If to Tree Spinco:

11115 Rushmore Drive  
Charlotte, North Carolina 28277  
Attention: General Counsel  
Telecopier: (704) -

with a copy to:

[ ]

Any Party may, by notice to the other Parties as set forth herein, change the address or fax number to which such notices are to be given.

13.11. Severability. If any provision of this Agreement or any Ancillary Agreement or the application thereof to any Person or circumstance is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof or thereof, or the application of such provision to Persons or circumstances or in jurisdictions other than those as to which it has been held invalid or unenforceable, shall remain in full force and

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effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby or thereby, as the case may be, is not affected in any manner adverse to any party hereto or thereto. Upon such determination, the relevant Parties shall negotiate in good faith in an effort to agree upon such a suitable and equitable provision to effect the original intent of the Parties.

13.12. Publicity. Prior to the Effective Time, IAC shall be responsible for issuing any press releases or otherwise making public statements with respect to this Agreement, the Separation, the Distributions or any of the other transactions contemplated hereby and thereby, and no Spinco shall make such statements without the prior written consent of IAC. Prior to the Effective Time, the Separate-cos shall each consult with the other prior to making any filings with any Governmental Authority with respect thereto.

13.13. Survival of Covenants. Except as expressly set forth in this Agreement or any Ancillary Agreement, any covenants, representations or warranties contained in this Agreement and each Ancillary Agreement shall survive the Separation and the Distributions and shall remain in full force and effect.

13.14. Waivers of Default; Conflicts. (a) Waiver by any Party of any default by the other Party of any provision of this Agreement or any Ancillary Agreement shall not be deemed a waiver by the waiving Party of any subsequent or other default, nor shall it prejudice the rights of the other Party. No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

(b) Each Party acknowledges that each of the Parties and each member of their respective Group are all currently represented by members of IAC's legal department and IAC's outside counsel. IAC (on behalf of itself and every member of its Group), on the one hand, and each Spinco (on behalf of itself and every member of its Group), on the other hand, waives any conflict with respect to such common representation that may arise before, at or after the Effective Time.

13.15. Amendments. After the Effective Time, no provisions of this Agreement or any Ancillary Agreement shall be deemed waived, amended, supplemented or modified by any Party, unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of the Party against whom it is sought to enforce such waiver, amendment, supplement or modification.

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

IAC/INTERACTIVECORP

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

HSN, INC.

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

INTERVAL LEISURE GROUP, INC.

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

TICKETMASTER

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

TREE.COM, INC.

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

**AMENDED AND RESTATED CERTIFICATE OF INCORPORATION**

**OF**

**TREE.COM, INC.**

Tree.com, Inc. (the "Corporation"), a corporation organized and existing under the laws of the State of Delaware, hereby certifies that:

1. The original Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on April 14, 2008.
2. The name under which the Corporation was initially incorporated is Tree.com, Inc.
3. This Amended and Restated Certificate of Incorporation restates and amends in its entirety the Certificate of Incorporation of the Corporation.
4. This Amended and Restated Certificate of Incorporation was duly adopted by the Board of Directors of the Corporation and by the stockholders of the Corporation in accordance with Sections 242 and 245 of the General Corporation Law of the State of Delaware (the "DGCL").
5. The text of the Certificate of Incorporation of the Corporation is hereby amended and restated to read in full as follows:

FIRST: The name of the corporation is Tree.com, Inc. (the "Corporation").

SECOND: The address of the registered office of the Corporation in the State of Delaware is c/o National Registered Agents, Inc., 160 Greentree Drive, Suite 101 City of Dover, County of Kent, State of Delaware 19904. The name of the registered agent of the Corporation at that address is National Registered Agents, Inc.

THIRD: The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of the State

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of Delaware (the "DGCL").

FOURTH: A. The total number of shares of all classes of stock which the Corporation shall have authority to issue is fifty-five million (55,000,000), consisting of fifty million (50,000,000) shares of Common Stock, par value one cent (\$.01) per share (the "Common Stock") and five million (5,000,000) shares of Preferred Stock, par value one cent (\$.01) per share (the "Preferred Stock").

B. The board of directors (the "Board") is authorized, subject to any limitations prescribed by law, to provide for the issuance of shares of Preferred Stock in series, and by filing a certificate pursuant to the applicable law of the State of Delaware (such certificate being hereinafter referred to as a "Preferred Stock Designation"), to establish from time to time the number of shares to be included in each such series, and to fix the designation, powers, preferences, and rights of the shares of each such series and any qualifications, limitations or restrictions thereof. The number of authorized shares of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the voting power of all of the then-outstanding shares of capital stock of the Corporation entitled to vote thereon, without a vote of the holders of the Preferred Stock, or of any series thereof, unless a vote of any such holders is required pursuant to the terms of any Preferred Stock Designation.

C. Each outstanding share of Common Stock shall entitle the holder thereof to one vote on each matter properly submitted to the stockholders of the Corporation for their vote; provided, however, that, except as otherwise required by law, holders of Common Stock shall not be entitled to vote on any amendment to this Certificate of Incorporation (including any Preferred Stock Designation relating to any series of Preferred

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Stock) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together as a class with the holders of one or more other such series, to vote thereon pursuant to this Certificate of Incorporation (including any Preferred Stock Designation relating to any series of Preferred Stock).

FIFTH: The Corporation elects not to be governed by Section 203 of the DGCL.

SIXTH: The following provisions are inserted for the management of the business and the conduct of the affairs of the Corporation, and for further definition, limitation and regulation of the powers of the Corporation and of its directors and stockholders:

A. The business and affairs of the Corporation shall be managed by or under the direction of the Board. In addition to the powers and authority expressly conferred upon them by statute or by this Certificate of Incorporation or the by-laws of the Corporation, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation.

B. The directors of the Corporation need not be elected by written ballot unless the by-laws so provide.

C. Subject to the rights of the holders of any series of Preferred Stock, any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of stockholders of the Corporation and may not be effected by any consent in writing by such stockholders.

D. Except as otherwise required by law and subject to the rights of the holders

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of any series of Preferred Stock, special meetings of the stockholders of the Corporation may be called only by or at the direction of the Board or by a person specifically designated with such authority by the Board. Stockholders are not entitled to call special meetings.

SEVENTH: A. Subject to the rights of the holders of any series of Preferred Stock to elect additional directors under specified circumstances, the number of directors shall be fixed from time to time exclusively by the Board pursuant to a resolution adopted by a majority of the Board.

B. Subject to the rights of the holders of any series of Preferred Stock then outstanding, newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the Board resulting from death, resignation, retirement, disqualification, removal from office or other cause shall, unless otherwise required by law or by resolution of the Board, be filled only by a majority vote of the directors then in office, though less than a quorum (and not by stockholders). Any director so chosen shall hold office for a term expiring at the next annual meeting of stockholders and until such director's successor shall have been duly elected and qualified, or until such director's earlier death, resignation, retirement, disqualification, removal from office or other reason.

C. Advance notice of stockholder nominations for the election of directors and of business to be brought by stockholders before any meeting of the stockholders of the Corporation shall be given in the manner provided in the by-laws of the Corporation.

EIGHTH: The Board is expressly empowered to adopt, amend or repeal by-laws of the Corporation.

NINTH: A director of the Corporation shall not be personally liable to the

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Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the DGCL, or (iv) for any transaction from which the director derived an improper personal benefit. If the DGCL is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended.

Any repeal or modification of the foregoing paragraph shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.

TENTH: The Corporation reserves the right to amend or repeal any provision contained in this Certificate of Incorporation in the manner prescribed by the laws of the State of Delaware and all rights conferred upon stockholders are granted subject to this reservation.

IN WITNESS WHEREOF, the Corporation has caused this Amended and Restated Certificate of Incorporation to be executed by its duly authorized officer this [ ] day of August, 2008.

TREE.COM, INC.

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By: Scott A. Cammarn  
Title: Corporate Secretary

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**BY-LAWS  
OF  
TREE.COM, INC.**

**AUGUST 2008**

ARTICLE I - OFFICES

Section 1.                    Registered Office.

The registered office of Tree.com, Inc. (the "Corporation") shall be located in the City of Dover, State of Delaware, or such other place as the board of directors (the "Board") may from time to time determine.

Section 2.                    Other Offices.

The Corporation may have offices at such other places, both within and without the State of Delaware, as the Board may from time to time determine or the business of the Corporation may require.

ARTICLE II - STOCKHOLDERS

Section 1.                    Annual Meeting.

(1) An annual meeting of the stockholders, for the election of directors to succeed those whose terms expire and for the transaction of such other business as may properly come before the meeting, shall be held at such place, on such date, and at such time as the Board shall each year fix.

(2) Nominations of persons for election to the Board and the proposal of business to be transacted by the stockholders may be made at an annual meeting of stockholders (a) pursuant to the Corporation's proxy materials with respect to such meeting, (b) by or at the direction of the Board, or (c) by any stockholder of record of the Corporation (the "Record Stockholder") at the time of the giving of the notice required in the following paragraph, who is

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entitled to vote at the meeting and who has complied with the notice procedures set forth in this section. For the avoidance of doubt, clause (c) above shall be the exclusive means for a stockholder to make nominations and propose business (other than business included in the Corporation's proxy materials pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (such act, and the rules and regulations promulgated thereunder, the "Exchange Act")) before an annual meeting of stockholders.

(3) For nominations or business to be properly brought before an annual meeting by a Record Stockholder pursuant to clause (c) of the foregoing paragraph, (A) the Record Stockholder must have given timely notice thereof in writing to the Secretary of the Corporation, (B) any such business must be a proper matter for stockholder action under Delaware law, and (C) the Record Stockholder and the beneficial owner, if any, on whose behalf any such proposal or nomination is made, must have acted in accordance with the representations set forth in the Solicitation Statement required by these By-Laws. To be timely, a Record Stockholder's notice shall be received by the Secretary at the principal executive offices of the Corporation not less than 60 or more than 90 days prior to the first anniversary (the "Anniversary") of the date for the preceding year's annual meeting of stockholders; provided, however, that if the date of the annual meeting is advanced more than 30 days prior to or delayed by more than 30 days after the anniversary of the preceding year's annual meeting, or if the Corporation did not hold an annual meeting during the preceding year, notice by the Record Stockholder to be timely must be so delivered not later than the close of business on the later of (i) the 90th day prior to such annual meeting or (ii) the 10th day following the day on which public announcement of the date of such meeting is first made. Such Record Stockholder's notice shall set forth:

(a) if such notice pertains to the nomination of directors, as to each person whom the

Record Stockholder proposes to nominate for election or reelection as a director all information relating to such person as would be required to be disclosed in solicitations of proxies for the election of such nominees as directors pursuant to Regulation 14A under the Exchange Act, and such person's written consent to serve as a director if elected;

(b) as to any business that the Record Stockholder proposes to bring before the meeting, a brief description of such business, the reasons for conducting such business at the meeting and any material interest in such business of such Record Stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and

(c) as to the Record Stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made

(i) the name and address of such Record Stockholder, as they appear on the Corporation's books, and of such beneficial owner,

(ii) (A) the class, series, and number of shares of the Corporation that are owned beneficially and of record by such Record Stockholder and such beneficial owner, (B) any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of shares of the Corporation or with a value derived in whole or in part from the value of any class or series of shares of the Corporation, whether or not such instrument or right shall be subject to settlement in the underlying class or series of capital stock of the Corporation or otherwise (a "Derivative

Instrument”) directly or indirectly owned beneficially by such stockholder and any other direct or indirect opportunity to profit or share in any profit derived from any increase or decrease in the value of shares of the

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Corporation, (C) any proxy, contract, arrangement, understanding, or relationship pursuant to which such stockholder has a right to vote any shares of any security of the Company, (D) any short interest in any security of the Company (for purposes of this By-law a person shall be deemed to have a short interest in a security if such person directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has the opportunity to profit or share in any profit derived from any decrease in the value of the subject security), (E) any rights to dividends on the shares of the Corporation owned beneficially by such stockholder that are separated or separable from the underlying shares of the Corporation, (F) any proportionate interest in shares of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such stockholder is a general partner or, directly or indirectly, beneficially owns an interest in a general partner and (G) any performance-related fees (other than an asset-based fee) that such stockholder is entitled to based on any increase or decrease in the value of shares of the Corporation or Derivative Instruments, if any, as of the date of such notice, including without limitation any such interests held by members of such stockholder’s immediate family sharing the same household (which information shall be supplemented by such stockholder and beneficial owner, if any, not later than 10 days after the record date for the meeting to disclose such ownership as of the record date) and

(iii) a statement whether or not such Record Stockholder or beneficial owner will deliver a proxy statement and form of proxy to holders of, in the case of a proposal, at least the percentage of voting power of all of the shares of capital stock

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of the Corporation required under applicable law to carry the proposal or, in the case of a nomination or nominations, at least the percentage of voting power of all of the shares of capital stock of the Corporation reasonably believed by such Record Stockholder or beneficial holder to be sufficient to elect the nominee or nominees proposed to be nominated by such Record Stockholder (such statement, a “Solicitation Statement”).

(4) Notwithstanding anything in the second sentence of the third paragraph of this Section 1 to the contrary, in the event that the number of directors to be elected to the Board is increased and there is no public announcement naming all of the nominees for director or specifying the size of the increased Board made by the Corporation at least 55 days prior to the Anniversary, a Record Stockholder’s notice required by this By-Law shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be received by the Secretary at the principal executive offices of the Corporation not later than the close of business on the 10th day following the day on which such public announcement is first made by the Corporation.

(5) A person shall not be eligible for election or re-election as a director at an annual meeting unless (i) the person is nominated by a Record Stockholder in accordance with Section 1(2)(c) or (ii) the person is nominated by or at the direction of the Board. Only such business shall be conducted at an annual meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this section. The chairman of the meeting shall have the power and the duty to determine whether a nomination or any business proposed to be brought before the meeting has been made in accordance with the procedures set forth in these By-Laws and, if any proposed nomination or business is not in compliance with these

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By-Laws, to declare that such defectively proposed business or nomination shall not be presented for stockholder action at the meeting and shall be disregarded.

(6) For purposes of these By-Laws, “public announcement” shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or a comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

(7) Notwithstanding the foregoing provisions of this Section 1, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to matters set forth in this Section 1. Nothing in this Section 1 shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation’s proxy statement pursuant to Rule 14a-8 under the Exchange Act.

## Section 2. Special Meetings.

(1) Special meetings of the stockholders, other than those required by statute, may be called at any time only by or at the direction of the Board or by a person specifically designated with such authority by the Board. The Board may postpone or reschedule any previously scheduled special meeting. Stockholders are not entitled to call special meetings.

(2) Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation’s notice of meeting. Nominations of persons for election to the Board may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation’s notice of meeting (a) by or at the direction of the Board or (b) by any stockholder of record of the Corporation who is a stockholder of record at the time of giving of notice provided for in this paragraph, who shall be entitled to vote at the meeting and who complies with the notice procedures set forth in Section 1 of this Article II.

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Nominations by stockholders of persons for election to the Board may be made at such a special meeting of stockholders only if the stockholder's notice required by the third paragraph of Section 1 of this Article II shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the later of the 90th day prior to such special meeting or the 10th day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board to be elected at such meeting. A person shall not be eligible for election or reelection as a director at a special meeting unless the person is nominated (i) by or at the direction of the Board or (ii) by a Record Stockholder in accordance with the notice procedures set forth in Section 1 of this Article II.

(3) Notwithstanding the foregoing provisions of this Section 2, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to matters set forth in this Section 2. Nothing in this Section 2 shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

Section 3.                    Notice of Meetings.

Notice of the place, if any, date, and time of all meetings of the stockholders, and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting, shall be given, not less than ten (10) nor more than sixty (60) days before the date on which the meeting is to be held, to each stockholder entitled to vote at such meeting, except as otherwise provided herein or required by law (meaning, here and hereinafter, as required from time to time by the Delaware General Corporation Law (the "DGCL"), a national securities exchange, or the Certificate of Incorporation of the Corporation). Meetings may be held without notice if all stockholders entitled to vote are present (unless any such

stockholders are present for the purpose of objecting to the meeting as lawfully called or convened), or if notice is waived by those not present. Any previously scheduled meeting of the stockholders may be postponed, and (unless the Certificate of Incorporation otherwise provides) any special meeting of the stockholders may be canceled, by resolution of the Board upon public notice given prior to the time previously scheduled for such meeting of stockholders.

When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place, if any, thereof, and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken; provided, however, that if the date of any adjourned meeting is more than thirty (30) days after the date for which the meeting was originally noticed, or if a new record date is fixed for the adjourned meeting, notice of the place, if any, date, and time of the adjourned meeting and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting, shall be given in conformity herewith. At any adjourned meeting, any business may be transacted which might have been transacted at the original meeting.

Section 4.                    Quorum.

At any meeting of the stockholders, the holders of a majority of the voting power of all of the shares of the stock entitled to vote at the meeting, present in person or by proxy, shall constitute a quorum for all purposes, unless or except to the extent that the presence of a larger number may be required by law. Where a separate vote by a class or classes or series is required, a majority of the voting power of the shares of such class or classes or series present in person or represented by proxy shall constitute a quorum entitled to take action with respect to that vote on

that matter.

If a quorum shall fail to attend any meeting, (a) the chairman of the meeting or (b) the holders of a majority of the voting power of all of the shares of the stock present in person or by proxy may adjourn the meeting to another place, if any, date, or time.

Section 5.                    Organization.

Such person as the Board may have designated or, in the absence of such a person, the Chairman of the Board or, in his or her absence, such person as may be chosen by the holders of a majority of the voting power of the shares entitled to vote who are present, in person or by proxy, shall call to order any meeting of the stockholders and act as chairman of the meeting. The Board may adopt by resolution such rules or regulations for the conduct of meetings of stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board, the chairman of any meeting of stockholders shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board or prescribed by the chairman, may include, without limitation, the following: (a) the establishment of an agenda or order of business for the meeting; (b) rules and procedures for maintaining order at the meeting and the safety of those present; (c) limitations on attendance at or participation in the meeting to stockholders of record, their duly authorized and constituted proxies or such other persons as the chairman shall permit; (d) restrictions on entry to the meeting after the time fixed for the commencement thereof, and (e) limitations on the time allotted to questions or comments by participants. In the absence of the Secretary of the Corporation, the secretary of the meeting shall be such person as the chairman of the meeting appoints.

Section 6.                    Conduct of Business.

The chairman of any meeting of stockholders shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussion as seem to him or her in order. The chairman shall have the power to adjourn the meeting to another place, if any, date and time. The date and time of the opening and closing of the polls for each matter upon which the stockholders will vote at the meeting shall be announced at the meeting.

Section 7.                    Proxies and Voting.

At any meeting of the stockholders, every stockholder entitled to vote may vote in person or by proxy authorized by an instrument in writing or by a transmission permitted by law filed in accordance with the procedure established for the meeting. Any copy, facsimile telecommunication or other reliable reproduction of the writing or transmission created pursuant to this paragraph may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, provided that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission.

The Corporation may, and to the extent required by law, shall, in advance of any meeting of stockholders, appoint one or more inspectors to act at the meeting and make a written report thereof. The Corporation may designate one or more alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the person presiding at the meeting may, and to the extent required by law, shall, appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality

and according to the best of his or her ability. Every vote taken by ballots shall be counted by a duly appointed inspector or inspectors.

All elections shall be determined by a plurality of the votes cast, and except as otherwise required by law, all other matters shall be determined by a majority of the votes cast affirmatively or negatively.

Subject to the rights of the holders of any series of Preferred Stock, any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of stockholders of the Corporation and may not be effected by any consent in writing by such stockholders.

Section 8.                    Stock List.

A complete list of stockholders entitled to vote at any meeting of stockholders, arranged in alphabetical order for each class of stock and showing the address of each such stockholder and the number of shares registered in his or her name, shall be open to the examination of any such stockholder for a period of at least 10 days prior to the meeting in the manner provided by law.

The stock list shall also be open to the examination of any stockholder during the whole time of the meeting as provided by law. This list shall presumptively determine the identity of the stockholders entitled to vote at the meeting and the number of shares held by each of them.

ARTICLE III - BOARD OF DIRECTORS

Section 1.                    Number, Election and Term of Directors.

Subject to the rights of the holders of any series of preferred stock to elect directors under specified circumstances, the number of directors shall be fixed from time to time exclusively by the Board pursuant to a resolution adopted by a majority of the Board.

Section 2.                    Newly Created Directorships and Vacancies.

Subject to the rights of the holders of any series of preferred stock then outstanding, newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the Board resulting from death, resignation, retirement, disqualification, removal from office or other cause shall, unless otherwise required by law or by resolution of the Board, be filled only by a majority vote of the directors then in office, though less than a quorum (and not by stockholders). No decrease in the number of authorized directors shall shorten the term of any incumbent director.

Section 3.                    Regular Meetings.

Regular meetings of the Board shall be held at such place or places, on such date or dates, and at such time or times as shall have been established by the Board and publicized among all directors.

Section 4.                    Special Meetings.

Special meetings of the Board may be called by the Chairman of the Board, the CEO or by a majority of the Board and shall be held at such place, on such date, and at such time as they or he or she shall fix. Notice of the place, date, and time of each such special meeting shall be given to each director by whom it is not waived by mailing written notice not less than five (5) days before the meeting or by telephone or by telegraphing or telexing or by facsimile or electronic transmission of the same not less than twenty-four (24) hours before the meeting. Unless otherwise indicated in the notice thereof, any and all business may be transacted at a special meeting. A meeting may be held at any time without notice if all the directors are present or if those not present waive notice of the meeting in accordance with Section 2 of Article VII of these By-Laws.

Section 5.                    Quorum.

At any meeting of the Board, a majority of the total number of directors shall constitute a quorum for all purposes. If a quorum shall fail to attend any meeting, a majority of those present may adjourn the meeting to another place, date, or time, without further notice or waiver thereof.

Section 6.                    Participation in Meetings By Conference Telephone.

Members of the Board, or of any committee thereof, may participate in a meeting of such Board or committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other and such participation shall constitute presence in person at such meeting.

Section 7.                    Conduct of Business.

At any meeting of the Board, business shall be transacted in such order and manner as the Board may from time to time determine, and all matters shall be determined by the vote of a majority of the directors present, except as otherwise provided herein or required by law. Action may be taken by the Board without a meeting if all members thereof consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 8.                    Compensation of Directors.

Unless otherwise restricted by the certificate of incorporation, the Board shall have the authority to fix the compensation of the directors. The directors may be paid their expenses, if any, of attendance at each meeting of the Board and may be paid a fixed sum for attendance at each meeting of the Board or paid a stated salary or paid other compensation as a director. No such

payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor. Members of special or standing committees may be allowed compensation for such service.

ARTICLE IV – COMMITTEES; CONDUCT OF BUSINESS; CHAIRMAN

Section 1.                    Committees of the Board.

The Board may from time to time designate committees of the Board, with such lawfully delegable powers and duties as it thereby confers, to serve at the pleasure of the Board and shall, for those committees and any others provided for herein, elect a director or directors to serve as the member or members, designating, if it desires, other directors as alternate members who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of any member of any committee and any alternate member in his or her place, the member or members of the committee present at the meeting and not disqualified from voting, whether or not he or she or they constitute a quorum, may by unanimous vote appoint another member of the Board to act at the meeting in the place of the absent or disqualified member.

Section 2.                    Conduct of Business.

Each committee may determine the procedural rules for meeting and conducting its business and shall act in accordance therewith, except as otherwise provided herein or required by law. Adequate provision shall be made for notice to members of all meetings; one-third (1/3) of the members, but never less than two members, shall constitute a quorum, unless the committee shall consist of one (1) member, in which event one (1) member shall constitute a quorum; and all matters shall be determined by a majority vote of the members present. Action may be taken by any committee without a meeting if all members thereof consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with

the minutes of the proceedings of such committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 3.                    Chairman of the Board.

The Board may elect one of its members to be Chairman of the Board and may fill any vacancy in the position of Chairman of the Board at such time and in such manner as the Board shall determine. The Chairman of the Board may but need not be an officer of or employed by the Corporation. Unless the resolutions appointing the Chairman of the Board specify that the Chairman of the Board shall be an officer, the Chairman of the Board shall not be an officer. The Chairman of the Board, if such be elected, shall, if present, preside at all meetings of the Board and exercise and perform such other powers and duties as be from time to time assigned to him by the Board.

ARTICLE V – OFFICERS

Section 1.                    Generally.

The Corporation shall have a Chief Executive Officer (the “CEO”), a Secretary, a Treasurer and such other officers as may from time to time be appointed by the Board, all of whom shall perform such duties as from time to time may be prescribed by the Board. Any two (2) or more offices may be held by the same person. Officers shall be elected by the Board, which shall consider that subject at its first meeting after every annual meeting of stockholders. Each officer shall hold office until his or her successor is elected and qualified or until his or her earlier resignation or removal. Any number of offices may be held by the same person. The salaries of officers elected by the Board shall be fixed from time to time by the Board or by such officers as

may be designated by resolution of the Board.

Section 2.                    The Chief Executive Officer.

Subject to the provisions of these By-laws and to the direction of the Board, the CEO shall have the responsibility for the general management and control of the business and affairs of the Corporation and shall perform all duties and have all powers which are commonly incident to the office of chief executive or which are delegated to him or her by the Board. He or she shall have power to sign all stock certificates, contracts and other instruments of the Corporation which are authorized and shall have general supervision and direction of all of the other officers, employees and agents of the Corporation.

Section 3.                    President.

The Board or the CEO may elect a President of the Corporation to have such duties and responsibilities as from time to time may be assigned to him by the CEO or the Board. He or she shall have general responsibility for the management and control of the operations of the Corporation and shall perform all duties and have all powers which are commonly incident to the office of chief operating officer or which are delegated to him or her by the Board or the CEO. Subject to the direction of the Board and the Chairman of the Board, the President shall have power to sign all stock certificates, contracts and other instruments of the Corporation which are authorized, and to all acts which are authorized by the CEO or the Board, and shall, in general, have such other duties and responsibilities as are assigned consistent with the authority of President of a corporation.

Section 4.                    Chief Financial Officer.

The Chief Financial Officer (if any) shall act in an executive financial capacity. He shall assist the CEO and the President, if any, in the general supervision of the Corporation's financial policies and affairs. Subject to the direction of the Board and the Chairman of the Board,

the Chief Financial Officer shall have the power to sign all stock certificates, contracts and other instruments of the Corporation which are authorized and shall, in general, have such other duties and responsibilities as are assigned consistently with the authority of a Chief Financial Officer of a corporation.

Section 5.                    Vice Presidents.

The Board or the CEO may from time to time name one or more Vice Presidents that may include the designation of Executive Vice Presidents or Senior Vice Presidents all of whom shall perform such duties as from time to time may be assigned to him by the CEO or the Board.

Section 6.                    Treasurer.

The Treasurer shall have the responsibility for maintaining the financial records of the Corporation. He or she shall make such disbursements of the funds of the Corporation as are authorized and shall render from time to time an account of all such transactions and of the financial condition of the Corporation. The Treasurer shall also perform such other duties as the Board may from time to time prescribe.

Section 7.                    Secretary.

The Secretary shall issue all authorized notices for, and shall keep minutes of, all meetings of the stockholders and the Board. He or she shall have charge of the corporate books and shall perform such other duties as the Board may from time to time prescribe.

Section 8.                    Delegation of Authority.

The Board may from time to time delegate the powers or duties of any officer to any other officers or agents, notwithstanding any provision hereof.

Section 9.                    Removal.

Any officer of the Corporation may be removed at any time, with or without cause, by the Board.

ARTICLE VI - STOCK

Section 1.                    Certificates of Stock.

The stock of the Corporation shall be represented by certificates, provided that the Board may provide by resolution for any or all of the stock to be uncertificated shares. Each holder of stock represented by certificates shall be entitled to a certificate signed by, or in the name of the Corporation by, the Chairman or President, if any (or any Vice President), and by the Secretary or an Assistant Secretary, or the Treasurer or an Assistant Treasurer, certifying the number of shares owned by him or her. Any or all of the signatures on the certificate may be by facsimile. In case any officer who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer before such certificate is issued, it may be issued by the Corporation with the same effect as if he or she were such officer at the date of issue.

Section 2.                    Record Date.

In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders, or to receive payment of any dividend or other distribution or allotment of any rights or to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board may, except as otherwise required by law, fix a record date, which record date shall not precede the date on which the resolution fixing the record date is adopted and which record date shall not be more than sixty (60) nor less than ten (10) days before the date of any meeting of stockholders, nor more than sixty (60) days prior to the time for such other action as hereinbefore described; provided, however, that if no record date is fixed by the Board, the record date for determining stockholders entitled to notice of or to vote at a

meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held, and, for determining stockholders entitled to receive payment of any dividend or other distribution or allotment of rights or to exercise any rights of change, conversion or exchange of stock or for any other purpose, the record date shall be at the close of business on the day on which the Board adopts a resolution relating thereto.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board may fix a new record date for the adjourned meeting.

Section 3.                    Lost, Stolen or Destroyed Certificates.

In the event of the loss, theft or destruction of any certificate of stock, another may be issued in its place pursuant to such regulations as the Board may establish concerning proof of such loss, theft or destruction and concerning the giving of a satisfactory bond or bonds of indemnity. When authorizing such issue of new certificate(s), the Board may, in its discretion and as a condition precedent to the issuance thereof, require the owner of the lost or destroyed certificate(s), or such owner's legal representative, to advertise the same in such manner as it shall require and/or to give the Corporation a bond in such sum as it may direct as indemnity against any claim that may be made against the Corporation with respect to the certificate(s) alleged to have been lost or destroyed.

Section 4.                    Regulations.

The issue, transfer, conversion and registration of certificates of stock shall be governed by such other regulations as the Board may establish.

ARTICLE VII - NOTICES

Section 1.                    Notices.

If mailed, notice to stockholders shall be deemed given when deposited in the mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders may be given by electronic transmission in the manner provided in Section 232 of the DGCL.

Section 2.                    Waivers.

A written waiver of any notice, signed by a stockholder or director, or waiver by electronic transmission by such person, whether given before or after the time of the event for which notice is to be given, shall be deemed equivalent to the notice required to be given to such person. Neither the business nor the purpose of any meeting need be specified in such a waiver. Attendance at any meeting shall constitute waiver of notice except attendance for the sole purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

ARTICLE VIII - MISCELLANEOUS

Section 1.                    Facsimile Signatures.

In addition to the provisions for use of facsimile signatures elsewhere specifically authorized in these By-laws, facsimile signatures of any officer or officers of the Corporation may be used whenever and as authorized by the Board or a committee thereof.

Section 2.                    Corporate Seal.

The corporate seal shall have inscribed thereon the name of the Corporation, the year of its organization, and the words "Corporate Seal, Delaware". The seal may be used by causing it or a facsimile thereof to be impressed or affixed or otherwise reproduced.

Section 3.                    Reliance upon Books, Reports and Records.

Each director, each member of any committee designated by the Board, and each officer of the Corporation shall, in the performance of his or her duties, be fully protected in relying in good faith upon the books of account or other records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of its officers or employees, or committees of the Board so designated, or by any other person as to

matters which such director or committee member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation.

Section 4.                    Fiscal Year.

The fiscal year of the Corporation shall be as fixed by the Board.

Section 5.                    Time Periods.

In applying any provision of these By-laws which requires that an act be done or not be done a specified number of days prior to an event or that an act be done during a period of a specified number of days prior to an event, calendar days shall be used, the day of the doing of the act shall be excluded, and the day of the event shall be included.

ARTICLE IX - INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 1.                    Indemnification.

(A) Each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or a person of whom he is the legal representative is or was, at any time during which this By-Law is in effect (whether or not such person continues to serve in such capacity at the time any indemnification or payment of expenses pursuant hereto is sought or at the time any proceeding relating thereto exists or is

brought), a director or officer of the Corporation, or is or was at any such time serving at the request of the Corporation as a director, officer or trustee of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans maintained or sponsored by the Corporation (each such person, an "indemnitee"), whether the basis of such proceeding is alleged action in an official capacity as a director, officer or trustee or in any other capacity while serving as a director, officer or trustee, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the DGCL as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such indemnitee in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer or trustee and shall inure to the benefit of his heirs, executors and administrators; provided, however, that except as provided in paragraph (C) of this By-Law, the Corporation shall indemnify any such indemnitee seeking indemnification in connection with a proceeding (or part thereof) initiated by such indemnitee only if such proceeding (or part thereof) was authorized by the Board. The right to indemnification conferred in this By-Law shall include the right to be paid by the Corporation the expenses (including attorney's fees) incurred in defending any such proceeding in advance of its final disposition, such advances to be paid by the Corporation within twenty (20) days after the receipt by the Corporation of a statement or statements from the claimant requesting such advance or advances from time to time; provided, however, that if the DGCL requires, the payment of such expenses incurred by an indemnitee in his capacity as a director or officer (and not in any other

capacity in which service was or is rendered by such indemnitee while a director or officer, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the Corporation of an undertaking (hereinafter, the "undertaking") by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right of appeal (a "final disposition") that such indemnitee is not entitled to be indemnified for such expenses under this By-Law or otherwise. The rights conferred upon indemnitees in this By-Law shall be contract rights that vest at the time of such person's service to or at the request of the Corporation and such rights shall continue as to an indemnitee who has ceased to be a director, officer or trustee and shall inure to the benefit of the indemnitee's heirs, executors and administrators.

(B) To obtain indemnification under this By-Law, a claimant shall submit to the Corporation a written request, including therein or therewith such documentation and information as is reasonably available to the claimant and is reasonably necessary to determine whether and to what extent the claimant is entitled to indemnification. Upon written request by a claimant for indemnification pursuant to the first sentence of this paragraph (B), a determination, if required by applicable law, with respect to the claimant's entitlement thereto shall be made as follows: (i) by the Board by a majority vote of the Disinterested Directors (as hereinafter defined), even though less than a quorum, or (ii) by a committee of Disinterested Directors designated by majority vote of the Disinterested Directors, even though less than a quorum, or (iii) if there are no Disinterested Directors or the Disinterested Directors so direct, by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to the claimant, or (iv) if a quorum of Disinterested Directors so directs, by the stockholders of the Corporation. If it is so determined that the claimant is entitled to indemnification, payment to the claimant shall be made within 10 days after such

determination.

(C) If a claim under paragraph (A) of this By-Law is not paid in full by the Corporation within thirty (30) days after a written claim pursuant to paragraph (B) of this By-Law has been received by the Corporation (except in the case of a claim for advancement of expenses, for which the applicable period is twenty (20) days), the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Corporation) that the claimant has not met the standard of conduct which makes it

permissible under the DGCL for the Corporation to indemnify the claimant for the amount claimed, but the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including the Disinterested Directors, Independent Counsel or stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including the Disinterested Directors, Independent Counsel or stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

(D) If a determination shall have been made pursuant to paragraph (B) of this By-Law that the claimant is entitled to indemnification, the Corporation shall be bound by such determination in any judicial proceeding commenced pursuant to paragraph (C) of this By-Law.

(E) The Corporation shall be precluded from asserting in any judicial proceeding

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commenced pursuant to paragraph (C) of this By-Law that the procedures and presumptions of this By-Law are not valid, binding and enforceable and shall stipulate in such proceeding that the Corporation is bound by all the provisions of this By-Law.

(F) The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this By-Law (i) shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, By-Laws, agreement, vote of stockholders or Disinterested Directors or otherwise and (ii) cannot be terminated by the Corporation, the Board or the stockholders of the Corporation with respect to a person's service prior to the date of such termination. Any amendment, modification, alteration or repeal of this By-Law that in any way diminishes, limits, restricts, adversely affects or eliminates any right of an indemnitee or his successors to indemnification, advancement of expenses or otherwise shall be prospective only and shall not in any way diminish, limit, restrict, adversely affect or eliminate any such right with respect to any actual or alleged state of facts, occurrence, action or omission then or previously existing, or any action, suit or proceeding previously or thereafter brought or threatened based in whole or in part upon any such actual or alleged state of facts, occurrence, action or omission.

(G) The Corporation may grant rights to indemnification, and rights to be paid by the Corporation the expenses incurred in defending any proceeding in advance of its final disposition, to any current or former employee or agent of the Corporation to the fullest extent of the provisions of this By-Law with respect to the indemnification and advancement of expenses of current or former directors and officers of the Corporation.

(H) If any provision or provisions of this By-Law shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (1) the validity, legality and enforceability of the

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remaining provisions of this By-Law (including, without limitation, each portion of any paragraph of this By-Law containing any such provision held to be invalid, illegal or unenforceable, that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (2) to the fullest extent possible, the provisions of this By-Law (including, without limitation, each such portion of any paragraph of this By-Law containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

(I) For purposes of this By-Law:

(i) "Disinterested Director" means a director of the Corporation who is not and was not a party to the matter in respect of which indemnification is sought by the claimant.

(ii) "Independent Counsel" means a law firm, a member of a law firm, or an independent practitioner, selected by the Disinterested Directors (if such Disinterested Directors so exist), that is experienced in matters of corporation law and shall include any person who, under the applicable standards of professional conduct then prevailing, would not have a conflict of interest in representing either the Corporation or the claimant in an action to determine the claimant's rights under this By-Law.

(J) Any notice, request or other communication required or permitted to be given to the Corporation under this By-Law shall be in writing and either delivered in person or sent by telecopy, telex, telegram, overnight mail or courier service, or certified or registered mail, postage prepaid, return receipt requested, to the Secretary of the Corporation and shall be effective only upon receipt by the Secretary.

## Section 2. Insurance.

The Corporation may maintain insurance, at its expense, to protect itself and any

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current or former director, officer, employee or agent of the Corporation and any current or former director, officer, trustee, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including any person who serves or served in any such capacity with respect to any employee benefit plan maintained or sponsored by the Corporation, against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL.

In furtherance and not in limitation of the powers conferred by law, the Board is expressly authorized to adopt, amend and repeal these By-Laws subject to the power of the holders of capital stock of the Corporation to adopt, amend or repeal the By-Laws.

August 1, 2008

Tree.com, Inc.  
11115 Rushmore Drive  
Charlotte, NC 28277

Re: Registration Statement on Form S-1 of Tree.com, Inc.

Ladies and Gentlemen:

I am the Executive Vice President, General Counsel and Secretary of IAC/InterActiveCorp, a Delaware corporation ("IAC"). This opinion is being delivered in connection with the preparation and filing of a Registration Statement on Form S-1 (the "Registration Statement") relating to the registration under the Securities Act of 1933, as amended (the "Securities Act"), which relates to 16,654,428 shares of common stock ("Common Stock"), par value \$.01 per share, of Tree.com, Inc. (the "Company"), which will be issued (i) in connection with spin-off transaction, (ii) in respect of certain equity-based awards previously issued pursuant to IAC's equity incentive plans that will be converted, in whole or in part, in connection with the spin-off into equity-based awards under the Tree.com, Inc. 2008 Stock and Annual Incentive Plan (the "Stock and Annual Incentive Plan"), (iii) in respect of equity-based awards that may be granted from time to time following the spin-off pursuant to the Stock and Annual Incentive Plan and (iv) pursuant to the Tree.com, Inc. Deferred Compensation Plan for Non-Employee Directors (such IAC equity incentive plans, the Stock and Annual Incentive Plan and the Tree.com, Inc. Deferred Compensation Plan for Non-Employee Directors, the "Plans").

In rendering this opinion, I have (i) examined such corporate records and other documents (including the Company's charter and bylaws as currently in effect and the Registration Statement and the exhibits thereto), and have reviewed such matters of law, as I have deemed necessary or appropriate, (ii) assumed the genuineness of all signatures or instruments relied upon by me, and the conformity of certified copies submitted to me with the original documents to which such certified copies relate, and (iii) have further assumed that there will be no changes in applicable law between the date of this opinion and the dates on which the Securities are issued or sold pursuant to the Registration Statement.

The Company is a Delaware corporation, and while I am not engaged in the practice of law in the State of Delaware, I am generally familiar with the Delaware General Corporation Law as presently in effect and have made such inquiries as I considered necessary to render this opinion. I am a member of the Bar of the State of New York and express no opinion as to the laws of any jurisdiction other than the federal laws of the United States, the laws of the State of New York and the Delaware General Corporation Law.

Based on and subject to the foregoing, I am of the opinion that the Securities will be, upon issuance and delivery pursuant to the terms and conditions as set forth in the Registration Statement, legally issued, fully paid and nonassessable.

I hereby consent to be named in the Registration Statement and in the related prospectus contained therein as the attorney who passed upon the legality of the Securities and to the filing of a copy of this opinion as Exhibit 5.1 to the Registration Statement. In giving such consent, I do not thereby admit that I am in the category of persons whose consent is required under Section 7 of the Securities Act of 1933.

Very truly yours,

/s/ Gregory R. Blatt

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Executive Vice President, General  
Counsel and Secretary of IAC/InterActiveCorp

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[WLRK Letterhead]

August 1, 2008

Tree.com, Inc.  
11115 Rushmore Drive  
Charlotte, NC 28277

Ladies and Gentlemen:

Reference is made to the Registration Statement on Form S-1 (as amended through the date hereof, the "Registration Statement") of Tree.com, Inc., a Delaware corporation ("Tree.com"), including the Prospectus, forming a part thereof, relating to the proposed spin-off of Tree.com from IAC/InterActiveCorp and the related transactions contemplated to occur prior to or contemporaneously with the spin-off of Tree.com.

We have participated in the preparation of the discussion, set forth in the section entitled "THE SEPARATION—Material U.S. Federal Income Tax Consequences of the Spin-Offs" in the Registration Statement. In our opinion, such discussion of those consequences, insofar as it summarizes United States federal income tax law, is accurate in all material respects.

We hereby consent to the filing of this opinion with the Securities and Exchange Commission as an exhibit to the Registration Statement, and to the references therein to us. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended.

Very truly yours,

/s/Wachtell, Lipton, Rosen & Katz

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**FORM OF  
TAX SHARING AGREEMENT**

by and among

**IAC/INTERACTIVECORP,**

**TICKETMASTER,**

**INTERVAL LEISURE GROUP, INC.,**

**HSN, INC.**

and

**TREE.COM, INC.**

Dated as of

[ ], 2008

**TAX SHARING AGREEMENT**

This TAX SHARING AGREEMENT (this "Agreement"), dated as of [ ], 2008, by and among IAC/InterActiveCorp, a Delaware corporation ("Parent"), Ticketmaster, a Delaware corporation and a wholly-owned subsidiary of Parent ("Ticketmaster Spinco"), Interval Leisure Group, Inc., a Delaware corporation and a wholly-owned subsidiary of Parent ("Interval Spinco"), HSN, Inc., a Delaware corporation and a wholly-owned subsidiary of Parent ("HSN Spinco"), and Tree.com, Inc., a Delaware corporation and a wholly-owned subsidiary of Parent ("Tree Spinco", together with Ticketmaster Spinco, Interval Spinco, and HSN Spinco, the "Spinco", and each of the Spinco, a "Spinco"). Each of Parent, Ticketmaster Spinco, Interval Spinco, HSN Spinco and Tree Spinco is sometimes referred to herein as a "Party" and collectively, as the "Parties".

**W I T N E S S E T H**

WHEREAS, the Parties have entered into a Separation and Distribution Agreement, dated as of [ ], 2008 (the "Separation Agreement"), providing for the restructuring of Parent and its subsidiaries into the Parent Group, the Ticketmaster Spinco Group, the Interval Spinco Group, the HSN Spinco Group, and the Tree Spinco Group (each as defined herein);

WHEREAS, pursuant to the terms of the Separation Agreement, Parent and its subsidiaries will consummate a series of internal restructuring steps (the "Internal Restructuring Steps") described in the Transactions Memo;

WHEREAS, for federal income tax purposes, it is intended that the Internal Distributions (as defined herein) shall qualify as tax-free transactions under Sections 355(a) and/or 368(a)(1)(D) of the Code;

WHEREAS, pursuant to the terms of the Separation Agreement, the Parties will effect the Distributions (as defined herein) and related transactions;

WHEREAS, for federal income tax purposes, it is intended that the Distributions shall qualify as tax-free transactions under Sections 355(a) and/or 368(a)(1)(D) of the Code;

WHEREAS, at the close of business on the Distribution Date of a Spinco, the taxable year of such Spinco shall close for federal income tax purposes; and

WHEREAS, the Parties wish to provide for the payment of Income Taxes and Other Taxes and entitlement to Refunds thereof, allocate responsibility and provide for cooperation in connection with the filing of returns in respect of Income Taxes and Other Taxes, and provide for certain other matters relating to Income Taxes and Other Taxes.

NOW, THEREFORE, in consideration of the premises and the representations, covenants and agreements herein contained and intending to be legally bound hereby, the Parties agree as follows:

1. **Definitions.** Capitalized terms used but not defined herein shall have the respective meanings assigned to them in the Separation Agreement. For purposes of this Agreement, the following terms shall have the meanings set forth below:

"Actually Realized" or "Actually Realizes" shall mean, for purposes of determining the timing of the incurrence of any Spin-Off Tax Liability, Income Tax Liability or Other Tax Liability or the realization of a Refund (or any related Tax cost or benefit), whether by receipt or as a credit or other offset to Taxes payable, by a Person in respect of any payment, transaction, occurrence or event, the time at which the amount of Income Taxes or Other Taxes paid (or Refund realized) by such Person is increased above (or reduced below) the amount of Income Taxes or Other

Taxes that such Person would have been required to pay (or Refund that such Person would have realized) but for such payment, transaction, occurrence or event.

“Aggregate Spin-Off Tax Liabilities” shall mean the sum of the Spin-Off Tax Liabilities with respect to each Taxing Jurisdiction.

“Breaching Party” shall have the meaning set forth in Section 8(c) hereof.

“Carryback” shall mean the carryback of a Tax Attribute (including, without limitation, a net operating loss, a net capital loss or a tax credit) by a member of a Spinco Group from a Post-Distribution Taxable Period to a Pre-Distribution Taxable Period during which the member of the Spinco Group was included in a Combined Return filed for such Pre-Distribution Taxable Period.

“Carryback Spinco” shall have the meaning set forth in Section 7(b) hereof.

“Cash Acquisition Merger” shall mean a merger of a newly-formed Subsidiary of a Spinco with a corporation, limited liability company, limited partnership, general partnership or joint venture (in each case, not previously owned directly or indirectly by such Spinco) pursuant to which such Spinco acquires such corporation, limited liability company, limited partnership, general partnership or joint venture solely for cash and no Equity Securities of such Spinco or any Subsidiary of such Spinco are issued, sold, redeemed or acquired, directly or indirectly.

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

“Combined Return” shall mean a consolidated, combined or unitary Income Tax Return or Other Tax Return that includes, by election or otherwise, one or more members of the Parent Group together with one or more members of a Spinco Group.

“Compensatory Equity Interests” shall have the meaning set forth in Section 11(a).

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“Distribution” or “Distributions” shall mean, individually or collectively, the Ticketmaster Spinco Distribution, the Interval Spinco Distribution, the HSN Spinco Distribution and the Tree Spinco Distribution.

“Distribution Date” shall mean, with respect to a Spinco, the date on which the Distribution of such Spinco is completed.

“Distribution-Related Proceeding” shall mean any Proceeding in which the IRS, another Tax Authority or any other party asserts a position that could reasonably be expected to adversely affect the Tax-Free Status of any of the Spin-Off-Related Transactions.

“EMA” shall mean the Employee Matters Agreement by and among Parent and the Spincos dated as of [ ], 2008.

“Employing Party” shall have the meaning set forth in Section 11(a) hereof.

“Equity Securities” shall mean any stock or other securities treated as equity for federal income tax purposes, options, warrants, rights, convertible debt, or any other instrument or security that affords any Person the right, whether conditional or otherwise, to acquire stock or to be paid an amount determined by reference to the value of stock.

“Fifty-Percent or Greater Interest” shall have the meaning ascribed to such term for purposes of Sections 355(d) and (e) of the Code.

“Final Determination” shall mean the final resolution of liability for any Tax, which resolution may be for a specific issue or adjustment or for a taxable period, (a) by IRS Form 870 or 870-AD (or any successor forms thereto), on the date of acceptance by or on behalf of the taxpayer, or by a comparable form under the laws of any other Taxing Jurisdiction, except that a Form 870 or 870-AD or comparable form shall not constitute a Final Determination to the extent that it reserves (whether by its terms or by operation of law) the right of the taxpayer to file a claim for Refund or the right of the Tax Authority to assert a further deficiency in respect of such issue or adjustment or for such taxable period (as the case may be); (b) by a decision, judgment, decree, or other order by a court of competent jurisdiction, which has become final and unappealable; (c) by a closing agreement or accepted offer in compromise under Sections 7121 or 7122 of the Code, or a comparable agreement under the laws of any other Taxing Jurisdiction; (d) by any allowance of a Refund or credit in respect of an overpayment of Tax, but only after the expiration of all periods during which such Refund may be recovered (including by way of offset) by the Taxing Jurisdiction imposing such Tax; or (e) by any other final disposition, including by reason of the expiration of the applicable statute of limitations or by mutual agreement of the parties.

“Group” shall mean the Parent Group, the Ticketmaster Spinco Group, the Interval Spinco Group, the HSN Spinco Group or the Tree Spinco Group, as applicable.

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“HSN Spinco Consolidated Group” shall mean the affiliated group of corporations (within the meaning of Section 1504(a) of the Code without regard to the exclusions in Section 1504(b)(1) through (8)) of which HSN Spinco is the common parent, determined immediately after the HSN Spinco Distribution (and any predecessor or successor to such affiliated group other than the Parent Consolidated Group or any other Spinco Consolidated Group).

“HSN Spinco Distribution” shall mean the distribution by Parent of all the common stock of HSN Spinco *pro rata* to holders of Distributing Common Stock and Distributing Class B Common Stock.

“HSN Spinco Group” shall mean (a) HSN Spinco and each Person that is a direct or indirect Subsidiary of HSN Spinco (including any Subsidiary of HSN Spinco that is disregarded for federal Income Tax purposes (or for purposes of any state, local, or foreign tax law))

immediately after the HSN Spinco Distribution after giving effect to the Spin-Off-Related Transactions, (b) any corporation (or other Person) that shall have merged or liquidated into HSN Spinco or any such Subsidiary and (c) any predecessor or successor to any Person otherwise described in this definition.

“Income Taxes” (a) shall mean (i) any federal, state, local or foreign taxes, charges, fees, imposts, levies or other assessments that are based upon, measured by, or calculated with respect to (A) net income or profits (including, but not limited to, any capital gains, gross receipts, or minimum tax, and any tax on items of tax preference, but not including sales, use, value added, real property gains, real or personal property, transfer or similar taxes), (B) multiple bases (including, but not limited to, corporate franchise, doing business or occupation taxes), if one or more of the bases upon which such tax may be based, by which it may be measured, or with respect to which it may be calculated is described in clause (a)(i) (A) of this definition, or (C) any net worth, franchise or similar tax, in each case together with (ii) any interest and any penalties, fines, additions to tax or additional amounts imposed by any Tax Authority with respect thereto and (b) shall include any transferee or successor liability in respect of an amount described in clause (a) of this definition.

“Income Tax Benefit” shall mean, with respect to a Party and the members of its Group, the excess of (a) the hypothetical Income Tax Liability of the Party and the members of its Group for such taxable period, calculated as if such Carryback had not been utilized but with all other facts unchanged over (b) the actual Income Tax Liability of the Party or the members of its Group for such taxable period, calculated taking into account such Carryback (and treating any Refund as a negative Income Tax Liability for purposes of such calculation).

“Income Tax Return” shall mean any return, report, filing, statement, questionnaire, declaration or other document required to be filed with a Tax Authority in respect of Income Taxes.

“Indemnified Party” shall mean any Person seeking indemnification pursuant to the provisions of this Agreement.

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“Indemnifying Party” shall mean any Party from which any Indemnified Party is seeking indemnification pursuant to the provisions of this Agreement.

“Indemnifying Spinco” shall have the meaning set forth in Section 3(b) hereof.

“Injured Party” shall have the meaning set forth in Section 8(c) hereof.

“Internal Distribution” shall mean any of the Internal Restructuring Steps that is intended to qualify as a tax-free transaction under Section 355(a) and/or 368(a)(1)(D) of the Code.

“Internal Restructuring Steps” shall have the meaning set forth in the recitals to this Agreement.

“Interval” shall mean Interval Acquisition Corp.

“Interval Spinco Consolidated Group” shall mean the affiliated group of corporations (within the meaning of Section 1504(a) of the Code without regard to the exclusions in Section 1504(b)(1) through (8)) of which Interval Spinco is the common parent, determined immediately after the Interval Spinco Distribution (and any predecessor or successor to such affiliated group other than the Parent Consolidated Group or any other Spinco Consolidated Group).

“Interval Spinco Distribution” shall mean the distribution by Parent of all the common stock of Interval Spinco *pro rata* to holders of Distributing Common Stock and Distributing Class B Common Stock.

“Interval Spinco Group” shall mean (a) Interval Spinco and each Person that is a direct or indirect Subsidiary of Interval Spinco (including any Subsidiary of Interval Spinco that is disregarded for federal Income Tax purposes (or for purposes of any state, local, or foreign tax law)) immediately after the Interval Spinco Distribution after giving effect to the Spin-Off-Related Transactions, (b) any corporation (or other Person) that shall have merged or liquidated into Interval Spinco or any such Subsidiary and (c) any predecessor or successor to any Person otherwise described in this definition.

“IRS” shall mean the Internal Revenue Service.

“IRS Ruling” shall mean any private letter ruling issued by the IRS in connection with any of the Spin-Off-Related Transactions.

“IRS Ruling Documents” shall mean the request for a private letter ruling submitted by Parent to the IRS on April 11, 2008, together with the appendices and exhibits thereto, and any supplemental filings or other materials subsequently submitted to the IRS in connection with the Spin-Off-Related Transactions.

“Losses” shall mean any and all losses, liabilities, claims, damages, obligations, payments, costs and expenses, matured or unmatured, absolute or contingent,

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accrued or unaccrued, liquidated or unliquidated, known or unknown (including, without limitation, the costs and expenses of any and all Actions, threatened Actions, demands, assessments, judgments, settlements and compromises relating thereto and attorneys’ fees and any and all expenses whatsoever reasonably incurred in investigating, preparing or defending against any such Actions or threatened Actions).

“Option” shall have the meaning ascribed to such term in the EMA.

“Other Tax Returns” shall mean any return, report, filing, statement, questionnaire, declaration or other document required to be filed with a Tax Authority in respect of Other Taxes.

“Other Taxes” shall mean any federal, state, local or foreign taxes, charges, fees, imposts, levies or other assessments of any nature whatsoever, and without limiting the generality of the foregoing, shall include superfund, sales, use, ad valorem, value added, occupancy, transfer, recording, withholding, payroll, employment, excise, occupation, premium or property taxes (in each case, together with any related interest, penalties and additions to tax, or additional amounts imposed by any Tax Authority thereon); provided, however, that Other Taxes shall not include any Income Taxes.

“Parent Consolidated Group” shall mean the affiliated group of corporations (within the meaning of Section 1504(a) of the Code without regard to the exclusions in Section 1504(b)(1) through (8)) of which Parent is the common parent (and any predecessor or successor to such affiliated group).

“Parent Group” shall mean (a) Parent and each Person that is a direct or indirect Subsidiary of Parent (including any Subsidiary of Parent that is disregarded for federal Income Tax purposes (or for purposes of any state, local, or foreign tax law)) immediately after the Distributions after giving effect to the Spin-Off-Related Transactions, (b) any corporation (or other Person) that shall have merged or liquidated into Parent or any such Subsidiary and (c) any predecessor or successor to any Person otherwise described in this definition.

“Parent Separate Return” shall mean any Separate Return required to be filed by Parent or any member of the Parent Group.

“Participating Spinco” shall have the meaning set forth in Section 6(d) hereof.

“Party” or “Parties” shall have the meaning set forth in the recitals to this Agreement.

“Permitted Transaction” shall mean any transaction that satisfies the requirements of Sections 4(c).

“Person” shall mean any individual, partnership, joint venture, limited liability company, corporation, association, joint stock company, trust, unincorporated

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organization or similar entity or a governmental authority or any department or agency or other unit thereof.

“Post-Distribution Taxable Period” shall mean, with respect to a Spinco and its Subsidiaries, a taxable period that begins after the Distribution Date of such Spinco.

“Pre-Distribution Taxable Period” shall mean, with respect to a Spinco and its Subsidiaries, a taxable period that ends on or before the Distribution Date of such Spinco.

“Proceeding” shall mean any audit or other examination, or judicial or administrative proceeding relating to liability for, or Refunds or adjustments with respect to, Taxes.

“Refund” shall mean any refund of Taxes, including any reduction in Tax Liabilities by means of a credit, offset or otherwise.

“Relying Party” shall have the meaning set forth in Section 8(d) hereof.

“Representative” shall mean with respect to a Person, such Person’s officers, directors, employees and other authorized agents.

“Representing Spinco” shall have the meaning set forth in Section 4(a) hereof.

“Requesting Spinco” shall have the meaning set forth in Section 4(c)(ii) hereof.

“Responsible Spinco” shall have the meaning set forth in Section 4(e) hereof.

“Restriction Period” shall mean, with respect to a Spinco, the period beginning on the Distribution Date after the Distribution of such Spinco and ending on the twenty five (25) month anniversary thereof.

“Separate Return” shall mean (a) in the case of any Tax Return required to be filed by any member of a Spinco Group (including any consolidated, combined or unitary return), any such Tax Return that does not include any member of the Parent Group or any member of any other Spinco Group and (b) in the case of any Tax Return required to be filed by any member of the Parent Group (including any consolidated, combined or unitary return), any such Tax Return that does not include any member of a Spinco Group.

“Separation Agreement” shall have the meaning set forth in the recitals of this Agreement.

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“Specified Restructuring Income Taxes” shall mean any Income Taxes of Parent or any entity that is or was a direct or indirect Subsidiary of Parent prior to the Distributions resulting from (a) the transfer of any Equity Securities of Interval to Interval Spinco prior to the Interval Spinco Distribution; (b) any transfer of assets by FLMG Holdings Corp. to TM Spinco or one of its Subsidiaries prior to the TM Spinco Distribution; (c) any Internal Distribution failing to achieve Tax-Free Status, (d) the sum of (i) any money and (ii) the fair market value of other property, in each case, transferred by any Spinco or Interval to any shareholder of such Spinco or Interval in connection with a Distribution

exceeding (x) such shareholder's tax basis in its shares of stock of such Spinco or Interval or (y) the net tax basis of any assets contributed by such shareholder to such Spinco, and (e) the triggering of any excess loss account as a result of the Distributions or the Internal Restructuring Steps.

“Spinco Adjustment” shall mean, with respect to a Spinco, an adjustment of any item of income, gain, loss, deduction or credit on a Combined Return that is attributable to members of such Spinco Group (including, in the case of any state or local consolidated, combined or unitary income or franchise Taxes, a change in one or more apportionment factors of members of a Spinco Group) pursuant to a Final Determination for a Pre-Distribution Taxable Period.

“Spinco Business” shall mean, with respect to a Spinco, each trade or business actively conducted (within the meaning of Section 355(b) of the Code) by such Spinco or any member of its respective Spinco Group immediately after the Distribution of such Spinco, as set forth in the IRS Ruling Documents (if applicable) and the Tax Opinion Documents.

“Spinco Consolidated Group” or “Spinco Consolidated Groups” shall mean, individually or collectively, the Ticketmaster Spinco Consolidated Group, the Interval Spinco Consolidated Group, the HSN Spinco Consolidated Group, and the Tree Spinco Consolidated Group.

“Spinco Group” or “Spinco Groups” shall mean, individually or collectively, the Ticketmaster Spinco Group, the Interval Spinco Group, the HSN Spinco Group, and the Tree Spinco Group.

“Spinco Separate Return” shall mean any Separate Return required to be filed by a Spinco or any member of its respective Spinco Group, including, without limitation, (a) any consolidated federal Income Tax Returns of the Spinco Consolidated Group required to be filed with respect to a Post-Distribution Taxable Period and (b) any consolidated federal Income Tax Returns for any group of which any member of the Spinco Group was the common parent.

“Spin-Off-Related Transactions” shall mean, with respect to a Distribution of a Spinco, any related contribution of assets to, and assumption of liabilities by, such Spinco, the Distribution of such Spinco and any Internal Restructuring Steps associated with such Distribution, in each case, as described in the Transactions Memo.

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“Spin-Off Tax Liabilities” shall mean, with respect to any Taxing Jurisdiction, the sum of (a) any increase in a Tax Liability (or reduction in a Refund) Actually Realized as a result of any corporate-level gain or income recognized with respect to the failure of any of the Spin-Off-Related Transactions to qualify for Tax-Free Status under the Income Tax laws of such Taxing Jurisdiction pursuant to any settlement, Final Determination, judgment, assessment, proposed adjustment or otherwise, (b) interest on such amounts calculated pursuant to such Taxing Jurisdiction's laws regarding interest on Tax liabilities at the highest Underpayment Rate in such Taxing Jurisdiction from the date such additional gain or income was recognized until full payment with respect thereto is made pursuant to Section 3 hereof (or in the case of a reduction in a Refund, the amount of interest that would have been received on the foregone portion of the Refund but for the failure of any of the Spin-Off-Related Transactions to qualify for Tax-Free Status), and (c) any penalties actually paid to such Taxing Jurisdiction that would not have been paid but for the failure of any of the Spin-Off-Related Transactions to qualify for Tax-Free Status in such Taxing Jurisdiction.

“Supplying Party” shall have the meaning set forth in Section 8(d) hereof.

“Tax Attribute” shall mean a consolidated, combined or unitary net operating loss, net capital loss, unused investment credit, unused foreign tax credit, or excess charitable contribution (as such terms are used in Treasury Regulations 1.1502-79 and 1.1502-79A or comparable provisions of foreign, state or local tax law), or a minimum tax credit or general business credit.

“Tax Authority” shall mean a governmental authority (foreign or domestic) or any subdivision, agency, commission or authority thereof or any quasi-governmental or private body having jurisdiction over the assessment, determination, collection or imposition of any Tax (including, without limitation, the IRS).

“Tax Benefits” shall have the meaning set forth in Section 3(a) hereof.

“Tax Counsel” shall mean tax counsel or an accounting firm of recognized national standing that is acceptable to Parent in its sole discretion.

“Taxes” shall mean Income Taxes and Other Taxes.

“Tax-Free Status” shall mean, with respect to a Distribution, the qualification of each of the Spin-Off-Related Transactions (other than the transfer by Parent of its membership interests in LendingTree, LLC to LendingTree Holdings Corp.) as (a) a transaction described in Sections 355(a) and/or 368(a)(1)(D) of the Code (or, in the case of the Internal Restructuring Steps associated with a Distribution, the qualification of such Internal Restructuring Steps as one or more transactions that are generally tax-free for federal income tax purposes pursuant to Section 351, Section 355, Section 368(a), Sections 332 and 337, or otherwise), (b) except with respect to the Distribution of Tree Spinco, as a transaction in which the stock distributed thereby is “qualified property” for purposes of Section 361(c) of the Code, and (c) as a transaction in which the Parties and the members of their respective Groups recognize no income or

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gain other than intercompany items or excess loss accounts, if any, taken into account pursuant to the Treasury Regulations promulgated pursuant to Section 1502 of the Code.

“Taxing Jurisdiction” shall mean the United States and every other government or governmental unit having jurisdiction to tax one or more of the Parties or any of their respective Affiliates.

“Tax Liabilities” shall mean any liabilities for Taxes.

“Tax Opinions” shall mean the tax opinions issued by Tax Counsel in connection with the Spin-Off-Related Transactions.

“Tax Opinion Documents” shall mean the Tax Opinions and the information and representations provided by, or on behalf of, the Parties to Tax Counsel in connection therewith.

“Tax-Related Losses” shall mean:

- (a) the Aggregate Spin-Off Tax Liabilities,
- (b) all accounting, legal and other professional fees, and court costs incurred in connection with any settlement, Final Determination, judgment or other determination with respect to such Aggregate Spin-Off Tax Liabilities, and
- (c) all costs, expenses and damages associated with stockholder litigation or controversies and any amount paid by a Party in respect of the liability of shareholders, whether paid to shareholders or to the IRS or any other Tax Authority payable by a Party or its respective Affiliates, in each case, resulting from the failure of any of the Spin-Off-Related Transactions to qualify for Tax-Free Status.

“Ticketmaster Spinco Consolidated Group” shall mean the affiliated group of corporations (within the meaning of Section 1504(a) of the Code without regard to the exclusions in Section 1504(b)(1) through (8)) of which Ticketmaster Spinco is the common parent, determined immediately after the Ticketmaster Spinco Distribution (and any predecessor or successor to such affiliated group other than the Parent Consolidated Group or any other Spinco Consolidated Group).

“Ticketmaster Spinco Distribution” shall mean the distribution by Parent of all the common stock of Ticketmaster Spinco *pro rata* to holders of Distributing Common Stock and Distributing Class B Common Stock.

“Ticketmaster Spinco Group” shall mean (a) Ticketmaster Spinco and each Person that is a direct or indirect Subsidiary of Ticketmaster Spinco (including any Subsidiary of Ticketmaster Spinco that is disregarded for federal Income Tax purposes (or for purposes of any state, local, or foreign tax law)) immediately after the Ticketmaster Spinco Distribution after giving effect to the Spin-Off-Related Transactions, (b) any corporation (or other Person) that shall have merged or liquidated

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into Ticketmaster Spinco or any such Subsidiary and (c) any predecessor or successor to any Person otherwise described in this definition.

“Tree Spinco Consolidated Group” shall mean the affiliated group of corporations (within the meaning of Section 1504(a) of the Code without regard to the exclusions in Section 1504(b)(1) through (8)) of which Tree Spinco is the common parent, determined immediately after the Tree Spinco Distribution (and any predecessor or successor to such affiliated group other than the Parent Consolidated Group or any other Spinco Consolidated Group).

“Tree Spinco Distribution” shall mean the distribution by Parent of all the common stock of Tree Spinco *pro rata* to holders of Distributing Common Stock and Distributing Class B Common Stock.

“Tree Spinco Group” shall mean (a) Tree Spinco and each Person that is a direct or indirect Subsidiary of Tree Spinco (including any Subsidiary of Tree Spinco that is disregarded for federal Income Tax purposes (or for purposes of any state, local, or foreign tax law)) immediately after the Tree Spinco Distribution after giving effect to the Spin-Off-Related Transactions, (b) any corporation (or other Person) that shall have merged or liquidated into Tree Spinco or any such Subsidiary and (c) any predecessor or successor to any Person otherwise described in this definition.

“Underpayment Rate” shall mean the annual rate of interest described in Section 6621(c) of the Code for large corporate underpayments of Income Tax (or similar provision of state, local, or foreign Income Tax law, as applicable), as determined from time to time.

“Unqualified Tax Opinion” shall mean an unqualified opinion of Tax Counsel on which Parent may rely to the effect that a transaction (a) will not disqualify any of the Spin-Off-Related Transactions from having Tax-Free Status, assuming that the Spin-Off-Related Transactions would have qualified for Tax-Free Status if such transaction did not occur, and (b) will not adversely affect any of the conclusions set forth in the IRS Ruling (if applicable) or the Tax Opinions; provided, that any tax opinion obtained in connection with a proposed acquisition of Equity Securities of a Spinco (or any entity treated as a successor to such Spinco), other than Tree Spinco, entered into during the Restriction Period shall not qualify as an Unqualified Opinion unless such tax opinion concludes that such proposed acquisition will not be treated as “part of a plan (or series of related transactions),” within the meaning of Section 355(e) of the Code and the Treasury Regulations promulgated thereunder, that includes the Distribution of such Spinco.

## 2. Filing of Tax Returns; Payment of Taxes.

(a) Filing of Tax Returns; Payment of Income Taxes and Other Taxes.

(i) Parent Consolidated Returns; Other Combined Returns. Parent shall prepare and file or cause to be prepared and filed (A) all consolidated federal Income

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Tax Returns of the Parent Consolidated Group and (B) all other Combined Returns for all taxable periods that end, with respect to a Spinco, on or before or include the Distribution Date of such Spinco. Parent shall pay, or cause to be paid, any and all Taxes due or required to be paid with respect to or required to be reported on any such Tax Return (in each case, including any increase in such Tax Liabilities attributable to a Final Determination with respect to a Pre-

Distribution Taxable Period (including a Spinco Adjustment); provided that Parent shall not be responsible for any Spinco Adjustment if the Spinco Group to which such Spinco Adjustment relates fails to promptly provide such cooperation as is requested by Parent in connection with Parent's conduct of the Proceeding to which such Final Determination relates).

(ii) Parent Separate Returns. Parent shall prepare and file or cause to be prepared and filed all Parent Separate Returns for all taxable periods. Parent shall pay, or cause to be paid, any and all Taxes due or required to be paid with respect to or required to be reported on any Parent Separate Return (including any increase in such Tax Liabilities attributable to a Final Determination).

(iii) Spinco Adjustments. If a Spinco fails to promptly provide such cooperation as is requested by Parent in connection with Parent's conduct of a Proceeding relating to a Spinco Adjustment with respect to such Spinco, such Spinco shall be responsible for any Tax Liabilities attributable to such Spinco Adjustment.

(iv) Spinco Separate Returns. Each Spinco shall prepare and file or cause to be prepared and filed its respective Spinco Separate Returns for all taxable years. Each Spinco shall pay, or cause to be paid, and shall be responsible for, any and all Taxes due or required to be paid with respect to or required to be reported on its Spinco Separate Returns (including any increase in such Tax Liabilities attributable to a Final Determination).

(b) Preparation of Tax Returns.

(i) Parent (or its designee) shall determine the entities to be included in any Combined Return and make or revoke any Tax elections, adopt or change any Tax accounting methods, and determine any other position taken on or in respect of any Tax Return required to be prepared and filed by Parent pursuant to Section 2(a)(i) or (ii). Any Tax Return filed by Parent pursuant to Section 2(a)(i) with respect to any Pre-Distribution Taxable Period shall, to the extent relating to one or more of the Spinco's or their respective Spinco Groups, be prepared in good faith. For the avoidance of doubt, with respect to the consolidated federal income tax return of Parent and its subsidiaries for any taxable year that includes one or more Distributions, Parent shall determine in its sole discretion whether to elect ratable allocation under Treasury Regulation Section 1.1502-76. Each Spinco shall, and shall cause each member of its respective Spinco Group to, take all actions necessary to give effect to such election. Each Spinco shall, and shall cause each member of its respective Spinco Group to, prepare and submit at Parent's request (but in no event later than 90 days after such request), at its own expense, all information that Parent shall reasonably request, in such form as Parent shall reasonably request, including any such information requested to enable Parent to prepare any Tax Return required to be filed by Parent pursuant to Section 2(a)(i).

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(ii) Except as otherwise required by applicable law or as a result of a Final Determination, (A) no Party shall, or permit or cause any member of its respective Group to, take any position that is either inconsistent with the treatment of the Spin-Off-Related Transactions as having Tax-Free Status (or analogous status under state, local or foreign law) and, (B) no Spinco shall, or permit or cause any member of its respective Spinco Group to, take any position with respect to an item of income, deduction, gain, loss, or credit on a Tax Return, or otherwise treat such item in a manner which is inconsistent with the manner such item is reported on a Tax Return required to be prepared or filed by Parent pursuant to Section 2(a) hereof (including, without limitation, the claiming of a deduction previously claimed on any such Tax Return).

3. Indemnification for Income Taxes and Other Taxes.

(a) Indemnification by Parent. From and after the Distribution of a Spinco, except as otherwise provided in Sections 3(b) and 3(c), Parent and each member of the Parent Group shall be responsible for and shall jointly and severally indemnify, defend and hold harmless such Spinco and each member of its Spinco Group and each of its Representatives and Affiliates (and the heirs, executors, successors and assigns of any of them) from and against (i) all Spin-Off Tax Liabilities incurred by any member of the Parent Group, (ii) without duplication, all Tax Liabilities that any member of the Parent Group is required to pay pursuant to Section 2, (iii) all Taxes, Spin-Off Tax Liabilities and Tax-Related Losses incurred by any member of any Group by reason of the breach by Parent or a member of the Parent Group of any of its representations or covenants hereunder or made in connection with the IRS Ruling (if applicable) and/or the Tax Opinions and, in each case, any related costs and expenses (including, without limitation, reasonable attorneys' fees and expenses), and (iv) all Specified Restructuring Income Taxes; provided, however, that neither Parent nor any member of the Parent Group shall have any obligation to indemnify, defend or hold harmless any Person pursuant to this Section 3(a) to the extent that such indemnification obligation is otherwise attributable to a breach by a Spinco (or a member of its Group) of any of its representations or covenants hereunder or made in connection with the IRS Ruling (if applicable) and/or the Tax Opinions; provided, that (x) in the event that an IRS Ruling is not obtained with respect to the Distribution of a Spinco, neither Parent nor such Spinco shall be deemed to make any representations regarding such Distribution in the IRS Ruling Documents, and (y) no Spinco makes any representations regarding any facts that, if untrue, would result in Specified Restructuring Income Taxes (other than representations regarding (1) whether such Spinco is engaged in the active conduct of a trade or business within the meaning of Section 355(b) of the Code, (2) such Spinco's conduct after the Distribution, and (3) the matters set forth in Section 4(a)(iii) hereof). If the indemnification obligation of Parent or any member of the Parent Group under this Section 3(a) (or any adjustment for which Parent is responsible pursuant to this Section 3(a), including any adjustment with respect to a Tax Return for which Parent is responsible pursuant to Section 2(a)(i)) results in (i) increased deductions, losses, or credits, or (ii) decreases in income, gains or recapture of Tax credits ("Tax Benefits") to a Spinco or any member of such Spinco's Group, which would not, but for the indemnification obligation (or the adjustment giving rise to such indemnification obligation), be allowable, then each Spinco receiving such Tax Benefit shall pay Parent the amount by which such Tax Benefit actually reduces, in cash, the amount of Tax that such Spinco or any member of its Spinco Group would have been required to pay and bear (or increases, in cash, the amount of a Refund to

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which such Spinco or any member of its Spinco Group would have been entitled) but for such indemnification obligation (or adjustment giving rise to such indemnification obligation). Each Spinco receiving the Tax Benefit shall pay Parent for such Tax Benefit no later than five days after such Tax Benefit is Actually Realized.

(b) Indemnification by Spinco's. From and after the Distribution Date of a Spinco, such Spinco (an "Indemnifying Spinco") and each member of its Spinco Group shall be responsible for and shall jointly and severally indemnify, defend and hold harmless each other Party and the members of each other Party's respective Group and their respective Representatives and Affiliates (and the heirs, executors, successors and assigns of any of

them) from and against (i) all Tax Liabilities (including Specified Restructuring Taxes), Spin-Off Tax Liabilities and Tax-Related Losses that the Indemnifying Spinco or any member of its Spinco Group is required to pay under Section 2 or is responsible for under Section 4 (including, without limitation, any Tax Liabilities or Spin-Off Tax Liabilities or Tax-Related Losses arising with respect to a Permitted Transaction for which the Indemnifying Spinco is liable pursuant to Section 4(e)(i)); (ii) all Taxes (including Specified Restructuring Income Taxes), Spin-Off Tax Liabilities and other Tax-Related Losses incurred by any member of any Group by reason of the breach by the Indemnifying Spinco or any member of its Spinco Group of any of its representations or covenants hereunder or made in connection with the IRS Ruling (if applicable) and/or the Tax Opinions) and, in each case, any related costs and expenses (including, without limitation, reasonable attorneys' fees and expenses); provided, that (x) in the event that an IRS Ruling is not obtained with respect to the Distribution of a Spinco, such Spinco shall not be deemed to make any representations regarding such Distribution in the IRS Ruling Documents, and (y) no Spinco makes any representations regarding any facts that, if untrue, would result in Specified Restructuring Income Taxes (other than representations regarding (1) whether such Spinco is engaged in the active conduct of a trade or business within the meaning of Section 355(b) of the Code, (2) such Spinco's conduct after the Distribution, and (3) the matters set forth in Section 4(a)(iii) hereof). If the indemnification obligation of a Spinco or any member of its Spinco Group under this Section 3(b) (or any adjustment for which such Spinco is responsible pursuant to this Section 3(b)) results in a Tax Benefit to another Party or any member of such other Party's Group, which would not, but for the Tax which is the subject of the indemnification obligation (or the adjustment giving rise to such indemnification obligation), be allowable, then each Party receiving such Tax Benefit shall pay the Indemnifying Spinco the amount by which such Tax Benefit actually reduces, in cash, the amount of Tax that the Party or any member of its Group would have been required to pay and bear (or increases, in cash, the amount of a Refund to which the Party or any member of its Group would have been entitled) but for such indemnification (or adjustment giving rise to such indemnification obligation). Each Party receiving such Tax Benefit shall pay the Indemnifying Spinco for such Tax Benefit no later than five days after such Tax Benefit is Actually Realized.

(c) Spinco Group Indemnification Failure. In the event that (i) pursuant to a Final Determination, any member of a Spinco Group is liable for, or otherwise required to make a payment in respect of, Spin-Off Tax Liabilities for which such Spinco Group is not responsible pursuant to this Agreement and (ii) full indemnification cannot be obtained from the Spinco Group responsible for such Spin-Off Tax Liabilities pursuant to this Agreement, Parent and each member of the Parent Group shall jointly and severally indemnify, defend and hold harmless the Spinco referred to in clause (i) and each member of its Spinco Group and each

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of its respective Representatives and Affiliates (and the heirs, executors, successors and assigns of any of them) from and against the portion of such liability for which full indemnification cannot be obtained from the Spinco Group referred to in clause (ii). Upon any payment by Parent or any member of the Parent Group in accordance with the preceding sentence, Parent or such member of the Parent Group shall be subrogated to any and all rights (including rights to payment and causes of action, under this Agreement or otherwise) of each member of the Spinco Group described in clause (i) in connection with the Final Determination at issue.

(d) Timing of Indemnification Payments. Any payment and indemnification made pursuant to this Section 3 shall be made by the Indemnifying Party promptly, but, in any event, no later than:

(i) in the case of an indemnification obligation with respect to any Tax Liabilities or Spin-Off Tax Liabilities, the later of (A) five Business Days after the Indemnified Party notifies the Indemnifying Party and (B) five Business Days prior to the date the Indemnified Party is required to make a payment of taxes, interest, or penalties to the applicable Tax Authority (including a payment with respect to an assessment of a tax deficiency by any Taxing Jurisdiction or a payment made in settlement of an asserted tax deficiency) or realizes a reduced Refund; and

(ii) in the case of any payment or indemnification of any Losses not otherwise described in clause (i) of this Section 3(d) (including, but not limited to, any Losses described in clause (b) or (c) of the definition of Tax-Related Losses, attorneys' fees and expenses and other indemnifiable Losses), the later of (A) five Business Days after the Indemnified Party notifies the Indemnifying Party and (B) five Business Days prior to the date the Indemnified Party makes a payment thereof.

#### 4. Spin-Off Related Matters.

(a) Representations.

(i) IRS Ruling Documents and Tax Opinion Documents. Each Spinco (a "Representing Spinco") hereby represents and warrants that (A) such Representing Spinco has examined the IRS Ruling Documents and the Tax Opinion Documents (including, without limitation, the representations to the extent that they relate to the plans, proposals, intentions, and policies of the Representing Spinco or any member of its Spinco Group, or the Spinco Business of such Spinco Group), and (B) to the extent in reference to such Representing Spinco, any member of its Spinco Group, or the Spinco Business of such Spinco Group, the facts presented and the representations made therein are true, correct and complete; provided, that (x) in the event that an IRS Ruling is not obtained with respect to the Distribution of a Spinco, such Spinco shall not be deemed to make any representations regarding such Distribution in the IRS Ruling Documents, and (y) no Spinco makes any representations regarding any facts that, if untrue, would result in Specified Restructuring Income Taxes (other than representations regarding (1) whether such Spinco is engaged in the active conduct of a trade or business within the meaning of Section 355(b) of the Code, (2) such Spinco's conduct after the Distribution, and (3) the matters set forth in Section 4(a)(iii) hereof).

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(ii) Tax-Free Status. Each Representing Spinco hereby represents and warrants that it has no plan or intention of taking any action, or failing to take any action or knows of any circumstance, that could reasonably be expected to cause any representation or factual statement made in this Agreement, the Separation Agreement, the IRS Ruling Documents, the Tax Opinion Documents or any of the Ancillary Agreements to be untrue; provided, that, in the event that an IRS Ruling is not obtained with respect to the Distribution of a Spinco, such Spinco shall not be deemed to make any representations regarding the IRS Ruling Documents.

(iii) Plan or Series of Related Transactions. Each Representing Spinco hereby represents and warrants that, during the two-year period ending on the Distribution Date of such Spinco, there was no "agreement, understanding, arrangement, substantial negotiations or discussions" (as such terms are defined in Treasury Regulation Section 1.355-7(h)) by any one or more officers or directors of any member of such Spinco Group or by any other person or persons with the implicit or explicit permission of one or more of such officers or directors regarding an acquisition of all or

a significant portion of the Equity Securities of such Spinco (or any predecessor); provided that no representation is made by any Spinco regarding any “agreement, understanding, arrangement, substantial negotiations or discussions” (as such terms are defined in Treasury Regulation 1.355-7(h)) by any one or more officers or directors of Parent.

(b) Covenants.

(i) Actions Consistent with Representations and Covenants. No Spinco (or any member of its respective Spinco Group) shall take any action, or fail to take any action or permit any member of its respective Group, to fail to take any action, where such action or failure to act would be inconsistent with or cause to be untrue any material information, covenant or representation made in connection with the IRS Ruling (if applicable), the Tax Opinions, the Separation Agreement or this Agreement.

(ii) Preservation of Tax-Free Status; Spinco Business. From and after its respective Distribution, no Spinco shall (A) take any action or permit any member of its respective Spinco Group to take any action, and each Spinco shall not fail to take any action or permit any member of its respective Spinco Group to fail to take any action, in each case, unless such action or failure to act could not reasonably be expected to cause any of the Spin-Off-Related Transactions to fail to have Tax-Free Status or could not require any of the Parties to reflect a liability or reserve for Income Taxes with respect to any of the Spin-Off-Related Transactions in its financial statements, and (B) until the first day after the Restriction Period, engage in any transaction that could reasonably be expected to result in it or any member of its respective Spinco Group ceasing to be a company engaged in its respective Spinco Business.

(iii) Sales, Issuances and Redemptions of Equity Securities. Until the first day after the Restriction Period applicable to a Spinco, such Spinco shall not and shall not agree to (and shall cause the members of its respective Spinco Group not to and not to agree to) sell or otherwise issue to any Person, or redeem or otherwise acquire from any Person, any Equity Securities of such Spinco or any member of its Spinco Group; provided, however,

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that (A) the adoption of a shareholder rights plan shall not constitute a sale or issuance of Equity Securities, (B) a Spinco may issue Equity Securities to the extent the issuance satisfies Safe Harbor VIII (relating to acquisitions in connection with a person’s performance of services) or Safe Harbor IX (relating to acquisitions by a retirement plan of an employer) of Treasury Regulation Section 1.355-7(d), and (C) members of a Spinco Group (other than a Spinco) may issue or sell Equity Securities to other members of the same Spinco Group, and may redeem or purchase Equity Securities from other members of the same Spinco Group, in each case, to the extent not inconsistent with the Tax-Free Status of the Spin-Off Related Transactions. Anything in this Section 4(b)(iii) to the contrary notwithstanding, there shall be no limitation on the ability of Tree Spinco to issue Equity Securities of Tree Spinco (or any member of its Group to issue Equity Securities of such member) to any Person, or to redeem or otherwise acquire from any Person, any Equity Securities of Tree Spinco or any member of its Group; provided that any redemption or acquisition of Equity Securities of Tree Spinco by Tree Spinco or any member of its Spinco Group prior to (or pursuant to an agreement or arrangement negotiated, in whole or in part, prior to) the first anniversary of the Distribution Date of Tree Spinco shall be permitted only if such transaction satisfies the requirements of Section 4.05(1)(b) of Revenue Procedure 96-30.

(iv) Tender Offers; Other Business Combination Transactions. Until the first day after the Restriction Period applicable to a Spinco, such Spinco shall (and shall cause the members of its Spinco Group) not to (A) solicit any Person to make a tender offer for, or otherwise acquire or sell, Equity Securities of such Spinco, (B) participate in or support any unsolicited tender offer for, or other acquisition or disposition of, Equity Securities of such Spinco, or (C) approve or otherwise permit any transaction described in clauses (A) or (B). In addition, no Spinco (nor any members of its respective Spinco Group) shall at any time, whether before or subsequent to the expiration of the Restriction Period applicable to such Spinco, engage in any action described in clauses (A), (B) or (C) of the preceding sentence pursuant to an agreement or arrangement negotiated (in whole or in part) prior to the first anniversary of the Distribution of such Spinco, even if at the time of the Distribution or thereafter such action is subject to one or more conditions. Anything in this Section 4(b)(iv) to the contrary notwithstanding, unless (x) such action is taken prior to the first anniversary of the Distribution Date of Tree Spinco (or pursuant to an agreement or arrangement negotiated, in whole or in part, prior to the first anniversary of the Distribution Date of Tree Spinco) and (y) relates to a “subsequent sale or exchange” (within the meaning of Treasury Regulation Section 1.355-2(d)(2)(iii) (taking into account clause (E) thereof) of Tree Spinco stock, the limitations described in this Section 4(b)(iv) shall not apply to Tree Spinco (or any member of its Spinco Group).

(v) Dispositions of Assets. Until the first day after the Restriction Period, no Spinco (nor any member of its respective Spinco Group) shall sell, transfer, or otherwise dispose of or agree to sell, transfer or otherwise dispose (including in any transaction treated for federal income tax purposes as a sale, transfer or disposition) of assets (including, any shares of capital stock of a Subsidiary) that, in the aggregate, constitute more than 30% of the gross assets of such Spinco or more than 30% of the consolidated gross assets of such Spinco Group. The foregoing sentence shall not apply to (A) sales, transfers, or dispositions of assets in the ordinary course of business, (B) any cash paid to acquire assets from an unrelated Person in an arm’s-length transaction, or (C) any assets transferred to a Person that

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is disregarded as an entity separate from the transferor for federal income tax purposes or (D) any mandatory or optional repayment (or pre-payment) of any indebtedness of such Spinco (or any member of its Spinco Group). The percentages of gross assets or consolidated gross assets of such Spinco or its respective Spinco Group, as the case may be, sold, transferred, or otherwise disposed of, shall be based on the fair market value of the gross assets of such Spinco and the members of its respective Spinco Group as of the Distribution Date of such Spinco. For purposes of this Section 4(b)(v), a merger of a Spinco or one of its Subsidiaries with and into any Person shall constitute a disposition of all of the assets of such Spinco or such Subsidiary.

(vi) Liquidations, Mergers, Reorganizations. Until the first day after the Restriction Period, no Spinco (nor any of its Subsidiaries) shall, or shall agree to, voluntarily dissolve or liquidate (including by converting into an entity that is treated as a “disregarded entity” or partnership for federal income tax purposes) or engage in any transaction involving a merger (except for a Cash Acquisition Merger), consolidation or other reorganization; provided, that, mergers of direct or indirect wholly-owned Subsidiaries of a Spinco solely with and into such Spinco or with other direct or indirect wholly-owned Subsidiaries of such Spinco, and liquidations of such Spinco’s wholly-owned subsidiaries are not subject to this Section 4(b)(vi) to the extent not inconsistent with the Tax-Free Status of the Spin-Off-Related Transactions.

(c) Permitted Transactions.

(i) Anything in Sections 4(b)(iii) and 4(b)(iv) to the contrary notwithstanding, a Spinco (or any member of its Group) shall not be prohibited from entering into or consummating a transaction otherwise prohibited solely by Section 4(b)(iii) or 4(b)(iv), if such transaction, together with any other transaction or transactions previously permitted pursuant to this Section 4(c)(i), would not result in one or more Persons acquiring, directly or indirectly, Equity Securities representing a 10% or greater interest, by vote or value, in such Spinco (or any successor thereto) pursuant to one or more transactions that have not been approved by Parent pursuant to Section 4(c)(ii). In the event the transaction at issue is a redemption or purchase of Equity Securities of a Spinco by such Spinco or a member of its Spinco Group prior to (or pursuant to an agreement or arrangement negotiated, in whole or in part, prior to) the first anniversary of the Distribution Date of such Spinco, such transaction shall be permitted only if it also satisfies the requirements of Section 4.05(1)(b) of Revenue Procedure 96-30.

(ii) Notwithstanding the restrictions otherwise imposed by Sections 4(b)(iii) through 4(b)(vi), during the Restriction Period, a Spinco (the “Requesting Spinco”) may (i) issue, sell, redeem or otherwise acquire (or cause a member of its respective Spinco Group to issue, sell, redeem or otherwise acquire) its own Equity Securities or Equity Securities of any member of its respective Spinco Group in a transaction that would otherwise breach the covenant set forth in Section 4(b)(iii) (determined after giving effect to Section 4(c)(i)), (ii) approve, participate in, support or otherwise permit a proposed business combination or transaction that would otherwise breach the covenant set forth in Section 4(b)(iv) (determined after giving effect to Section 4(c)(i)), (iii) sell or otherwise dispose of its assets or the assets of any member of its respective Spinco Group in a transaction that would otherwise breach the covenant set forth in Section 4(b)(v), or (iv) merge itself or any member of its respective Spinco Group with another

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entity without regard to which party is the surviving entity in a transaction that would otherwise breach the covenant set forth in Section 4(b)(vi), if and only if such transaction would not violate Section 4(b)(i) or Section 4(b)(ii) and prior to entering into any agreement contemplating a transaction described in clauses (i), (ii), (iii) or (iv) of this Section 4(c)(ii), and prior to consummating any such transaction: (X) the Requesting Spinco obtains Parent’s written consent (which may be withheld in Parent’s sole discretion), (Y) the Requesting Spinco provides Parent with an Unqualified Tax Opinion (or, subject to Section 4(d)(iii), a private letter ruling), in each case, in form and substance satisfactory to Parent in its sole and absolute discretion exercised in good faith (and in determining whether an opinion or ruling is satisfactory, Parent may consider, among other factors, the appropriateness of any underlying assumptions and management’s representations if used as a basis for the opinion or supplemental ruling), or (Z) the Requesting Spinco shall request that Parent obtain a private letter ruling (or, if applicable, a supplemental private letter ruling) in accordance with Section 4(d)(ii) of this Agreement to the effect that such transaction will not affect the Tax-Free Status of any of the Spin-Off-Related Transactions and Parent shall have received such private letter ruling, in form and substance satisfactory to Parent in its sole and absolute discretion, exercised in good faith. Notwithstanding the foregoing, with respect to any action or transaction involving an acquisition of the Requesting Spinco’s stock entered into at least 18 months after the Distribution Date of the Requesting Spinco, the Requesting Spinco shall be permitted to consummate such transaction if it delivers an unconditional officer’s certificate establishing facts evidencing that such acquisition satisfies the requirements of Safe Harbor III in Treasury Regulation Section 1.355-7(d), and Parent, after due diligence, is satisfied with the accuracy of such certification.

(d) Private Letter Rulings and Restrictions on the Spincos.

(i) Private Letter Ruling at Parent’s Request. Parent shall have the right to obtain a private letter ruling (or, if applicable, a supplemental private letter ruling) in its sole discretion. If Parent determines to obtain a private letter ruling, each Spinco shall (and shall cause each member of its respective Spinco Group to) cooperate with Parent and take any and all actions reasonably requested by Parent in connection with obtaining the private letter ruling (including, without limitation, by making any representation or covenant or providing any materials or information requested by any Tax Authority; provided that none of the Spincos shall be required to make (or cause any member of their respective Spinco Groups to make) any representation or covenant that is inconsistent with historical facts or as to future matters or events over which it has no control).

(ii) Private Letter Rulings at Spinco’s Request. Parent agrees that at the reasonable request of a Requesting Spinco pursuant to Section 4(c), Parent shall (and shall cause each member of the Parent Group to) cooperate with the Requesting Spinco and use reasonable efforts to seek to obtain, as expeditiously as reasonably practicable, a private letter ruling (or supplemental private letter ruling) from the IRS for the purpose of confirming compliance on the part of the Requesting Spinco or any member of its respective Spinco Group with its obligations under Section 4(b) of this Agreement. Further, in no event shall Parent be required to file any request for a private letter ruling under this Section 4(d)(ii) unless the Requesting Spinco represents that (A) it has reviewed the request for the private letter ruling and any materials, appendices and exhibits submitted or filed therewith, and (B) all information and representations, if any, relating to any member of the Requesting Spinco’s Spinco Group

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contained in the IRS Ruling Documents (if applicable) or Tax Opinion Documents are true, correct and complete in all material respects. The Requesting Spinco shall reimburse Parent for all reasonable costs and expenses incurred by the Parent Group in obtaining a private letter ruling requested by the Requesting Spinco within 10 Business Days after receiving an invoice from Parent therefor. Each Spinco hereby agrees that Parent shall have sole and exclusive control over the process of obtaining a private letter ruling, and that only Parent shall have the right to apply for a private letter ruling relating to any of the Spin-Off Related Transactions. In connection with obtaining a private letter ruling pursuant to this Section 4(d)(ii), (A) Parent shall, to the extent practicable, consult with the Requesting Spinco reasonably in advance of taking any material action in connection therewith; (B) Parent shall (1) reasonably in advance of the submission of any documents to the IRS provide the Requesting Spinco with a draft copy thereof, (2) reasonably consider the Requesting Spinco’s comments on such documents, and (3) provide the Requesting Spinco with copies of all documents submitted to or received from the Tax Authority in connection with such ruling request; and (C) Parent shall provide the Requesting Spinco with notice reasonably in advance of, and the Requesting Spinco shall have the right to attend and participate in, any formally scheduled meetings with any Tax Authority (subject to the approval of the Tax Authority) that relate to such supplemental private letter ruling.

(iii) Prohibition on the Spincos. Each Spinco hereby agrees that, except to the extent permitted by Section 4(d)(ii) or as otherwise consented to by Parent in writing, neither it nor any member of its respective Spinco Group shall seek any guidance from the IRS or any other Tax Authority (whether written, verbal or otherwise) concerning any of the Spin-Off-Related Transactions (or the impact of any transaction on any of the Spin-Off-Related Transactions).

(e) Liability of each Spinco for Undertaking Certain Actions. Notwithstanding anything in this Agreement to the contrary, each Spinco (a "Responsible Spinco") and the members of its respective Spinco Group shall be responsible for any and all Tax-Related Losses that are attributable to, or result from:

(i) any act or failure to act by the Responsible Spinco or any member of its respective Spinco Group, which action or failure to act is inconsistent with any of the covenants set forth in Sections 4(b)(i) through 4(b)(vi) of this Agreement, in each case, determined without regard to any of the exceptions or provisos contained in such provisions or in Section 4(c)), expressly including, for this purpose, any Permitted Transaction and any act or failure to act that is inconsistent with Section 4(b)(i) or 4(b)(ii), regardless of whether such act or failure to act is permitted by Sections 4(b)(iii) through 4(b)(vi);

(ii) any acquisition or disposition of Equity Securities of the Responsible Spinco or any member of its respective Spinco Group by any Person or Persons (including, without limitation, as a result of an issuance of the Responsible Spinco's Equity Securities or a merger of another entity with and into the Responsible Spinco or any member of its respective Spinco Group) or any acquisition of assets of the Responsible Spinco or any member of its respective Spinco Group (including, without limitation, as a result of a merger) by any Person or Persons; and

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(iii) any breach by the Responsible Spinco or any member of its Spinco Group of a representation or covenant made in this Agreement, the Separation Agreement, any Ancillary Agreement, or any documents relating to the IRS Ruling or the Tax Opinions; provided, that (x) in the event that an IRS Ruling is not obtained with respect to the Distribution of a Spinco, such Spinco shall not be deemed to make any representations regarding such Distribution in the IRS Ruling Documents, and (y) no Spinco makes any representations regarding any facts that, if untrue, would result in Specified Restructuring Income Taxes (other than representations regarding (1) whether such Spinco is engaged in the active conduct of a trade or business within the meaning of Section 355(b) of the Code, (2) such Spinco's conduct after the Distribution, and (3) the matters set forth in Section 4(a)(iii) hereof).

(f) Cooperation.

(i) Without limiting the prohibition set forth in Section 4(d)(iii), until the first day after the Restriction Period, each Spinco shall furnish Parent with a copy of any ruling request that any member of its respective Spinco Group may file with the IRS or any other Tax Authority and any opinion received that in any respect relates to, or otherwise reasonably could be expected to have any effect on, the Tax-Free Status of any of the Spin-Off-Related Transactions with respect to such Spinco.

(ii) Each Party shall reasonably cooperate with the Requesting Spinco in connection with any request by the Requesting Spinco for an Unqualified Tax Opinion pursuant to Section 4(c)(ii).

(iii) Until the first day after the Restriction Period, each Spinco shall provide adequate advance notice to Parent in accordance with the terms of Section 4(f)(iv) of any action described in Sections 4(b)(i) through 4(b)(vi) within a period of time sufficient to enable Parent to seek injunctive relief pursuant to Section 4(g) in a court of competent jurisdiction; provided that Tree Spinco shall not be required to provide advance notice with respect to any action described in Sections 4(b)(iii) through 4(b)(vi) with respect to which Tree Spinco is not subject to restrictions.

(iv) Each notice required by Section 4(f)(iii) shall set forth the terms and conditions of any such proposed transaction, including, without limitation, (A) the nature of any related action proposed to be taken by the board of directors of such Spinco, (B) the approximate number of Equity Securities (and their voting and economic rights) of such Spinco or any member of its respective Spinco Group (if any) proposed to be sold (or otherwise issued) or acquired, (C) the approximate value of such Spinco's assets (or assets of any member of its respective Spinco Group) proposed to be transferred, and (D) the proposed timetable for such transaction, all with sufficient particularity to enable Parent to seek such injunctive relief. Promptly, but in any event within 30 days, after Parent receives such written notice from such Spinco, Parent shall notify such Spinco in writing of Parent's decision to seek injunctive relief pursuant to Section 4(g).

(v) Until the first day after the Restriction Period, no Spinco nor any member of its respective Spinco Group shall take (or refrain from taking) any action to the extent that such action or inaction would have caused a representation made with respect to

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such Spinco in connection with the IRS Ruling (but only if such IRS Ruling was received) and/or the Tax Opinions to have been untrue as of the relevant representation date, had such Spinco or any member of its respective Spinco Group intended to take (or refrain from taking) such action on the relevant representation date.

(g) Enforcement. The Parties acknowledge that irreparable harm would occur in the event that any of the provisions of this Section 4 were not performed in accordance with their specific terms or were otherwise breached. The Parties agree that, in order to preserve the Tax-Free Status of the Spin-Off-Related Transactions, injunctive relief is appropriate to prevent any violation of the foregoing covenants; provided, however, that injunctive relief shall not be the exclusive legal or equitable remedy for any such violation.

5. Refunds. Parent shall be entitled to all Refunds (and any interest thereon received from the applicable Tax Authority) in respect of Taxes paid with respect to any Tax Return for which Parent or any member of the Parent Group is responsible pursuant to Section 2. Each Spinco shall be entitled to all Refunds (and any interest thereon received from the applicable Tax Authority) in respect of Taxes paid with respect to any Tax Return for which it or members of its respective Spinco Group are responsible pursuant to Section 2. Notwithstanding the foregoing, in the event a Party obtains a Refund of Taxes for which it was indemnified by another Party (other than Taxes for which a Spinco is responsible pursuant to Section 2(a)(iii)), the indemnifying Party shall be entitled to such Refund. A Party receiving a Refund to which another Party is entitled pursuant to this Section 5 shall pay the amount to which such other Party is entitled within fifteen Business Days after such Refund is Actually Realized. The Parties shall cooperate with each other in connection with any claim for a Refund in respect of a Tax for which any member of their respective Groups is responsible pursuant to Section 2.

6. Tax Contests.

(a) Notification. Each Party shall notify the other Parties in writing of any communication with respect to any pending or threatened Proceeding in connection with a Tax Liability (or any issue related thereto) of any Party or member of its Group, for which another Party or member of its Group, may be responsible pursuant to this Agreement within ten (10) Business Days of receipt; provided, however, that in the case of any Distribution-Related Proceeding (no matter which Party is responsible), such notice shall be provided no later than ten (10) Business Days after such Party first receives written notice from the IRS or other Tax Authority of such Distribution-Related Proceeding. The notifying Party shall include with such notification a true, correct and complete copy of any written communication, and an accurate and complete written summary of any oral communication, received by such notifying Party or member of its Group. The failure of one Party to notify the other Parties of such communication in accordance with the immediately preceding sentence shall not relieve such other Party of any liability or obligation that it may have under this Agreement, except to the extent that the failure timely to forward such notification actually prejudices the ability of such other Party to contest such Income Tax Liability or Other Tax Liability or increases the amount of such Income Tax Liability or Other Tax Liability.

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(b) Representation with Respect to Tax Disputes. Parent (or such member of the Parent Group as Parent shall designate) shall have the sole right to administer and control and to employ counsel of its choice at its expense in any Proceeding (including any Distribution-Related Proceeding) relating to (i) any consolidated federal Income Tax Returns of the Parent Consolidated Group, (ii) any other Combined Returns and (iii) any Parent Separate Returns. Each Spinco (or such member of its respective Spinco Group as such Spinco shall designate) shall have the sole right to administer and control and to employ counsel of its choice at its expense in any Proceeding (excluding any Distribution-Related Proceeding) relating to its respective Spinco Consolidated Return or Spinco Separate Return.

(c) Power of Attorney. Each Spinco (and members of its respective Group) shall execute and deliver to Parent (or such member of the Parent Group as Parent shall designate) any power of attorney or other document requested by Parent (or such designee) in connection with any Proceeding described in the first sentence of Section 6(b).

(d) Distribution-Related Proceedings.

(i) In the event of any Distribution-Related Proceeding as a result of which a Spinco could reasonably be expected to become liable for any Tax or Tax-Related Losses (each, a "Participating Spinco") and which Parent has the right to administer and control pursuant to Section 6(b) above, (A) Parent shall consult with each Participating Spinco reasonably in advance of taking any significant action in connection with such Proceeding, (B) Parent shall offer each Participating Spinco a reasonable opportunity to comment before submitting any written materials prepared or furnished in connection with such Proceeding, (C) Parent shall defend such Proceeding diligently and in good faith as if it were the only party in interest in connection with such Proceeding, and (D) Parent shall provide each Participating Spinco copies of any written materials relating to such Proceeding received from the relevant Tax Authority. Notwithstanding anything in the preceding sentence to the contrary, the final determination of the positions taken, including with respect to settlement or other disposition, in any Distribution-Related Proceeding shall be made in the sole discretion of Parent and shall be final and not subject to the dispute resolution provisions of Article 9 of the Separation Agreement.

(ii) In the event of any Distribution-Related Proceeding with respect to any Spinco Separate Return, (A) such Spinco shall consult with Parent reasonably in advance of taking any significant action in connection with such Proceeding, (B) such Spinco shall consult with Parent and offer Parent a reasonable opportunity to comment before submitting any written materials prepared or furnished in connection with such Proceeding, (C) such Spinco shall defend such Proceeding diligently and in good faith as if it were the only party in interest in connection with such Proceeding, (D) Parent shall be entitled to participate in such Proceeding and receive copies of any written materials relating to such Proceeding received from the relevant Tax Authority, and (E) such Spinco shall not settle, compromise or abandon any such Proceeding without obtaining the prior written consent of Parent, which consent shall not be unreasonably withheld.

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## 7. Apportionment of Tax Attributes; Carrybacks.

(a) Apportionment of Tax Attributes.

(i) If the Parent Consolidated Group has a Tax Attribute, the portion, if any, of such Tax Attribute apportioned to any Spinco or the members of its respective Spinco Consolidated Group and treated as a carryover to the first Post-Distribution Taxable Period of such Spinco (or such member) shall be determined by Parent in accordance with Treasury Regulation Sections 1.1502-21, 1.1502-21T, 1.1502-22, 1.1502-79 and, if applicable, 1.1502-79A.

(ii) No Tax Attribute with respect to consolidated federal Income Tax of the Parent Consolidated Group, other than those described in Section 7(a)(i), and no Tax Attribute with respect to consolidated, combined or unitary state, local, or foreign Income Tax, in each case, arising in respect of a Combined Return shall be apportioned to any Spinco or any member of its respective Spinco Group, except as Parent (or such member of the Parent Group as Parent shall designate) determines is otherwise required under applicable law.

(iii) Parent (or its designee) shall determine the portion, if any, of any Tax Attribute which must (absent a Final Determination to the contrary) be apportioned to a Spinco or any member of its respective Spinco Group in accordance with this Section 7(a) and applicable law, and the amount of tax basis and earnings and profits to be apportioned to such Spinco or any member of its respective Spinco Group in accordance with applicable law, and shall provide written notice of the calculation thereof to such Spinco as soon as reasonably practicable after the information necessary to make such calculation becomes available to Parent.

(iv) The written notice delivered by Parent pursuant to Section 7(a)(iii) shall be binding on each Spinco Group and shall not be subject to dispute resolution. Except as otherwise required by a change in applicable law or pursuant to a Final Determination, no Spinco shall take any position (whether on a Tax Return or otherwise) that is inconsistent with the information contained in such written notice.

(b) Carrybacks. Except to the extent otherwise consented to by Parent or prohibited by applicable law, each Spinco shall elect to relinquish, waive or otherwise forgo all Carrybacks. In the event that a Spinco (the "Carryback Spinco"), or the appropriate member of its respective Spinco Group, is prohibited by applicable law to relinquish, waive or otherwise forgo a Carryback (or Parent consents to a Carryback), (i) each Party shall

cooperate with the Carryback Spinco, at the Carryback Spinco's expense, in seeking from the appropriate Tax Authority such Refund as reasonably would result from such Carryback, and (ii) the Carryback Spinco shall be entitled to any Income Tax Benefit Actually Realized by a member of another Group (including any interest thereon received from such Tax Authority), to the extent that such Refund is directly attributable to such Carryback, within 15 Business Days after such Refund is Actually Realized; provided, however, that the Carryback Spinco shall indemnify and hold the members of the other Party's Group harmless from and against any and all collateral tax consequences resulting from or caused by any such Carryback, including (but not limited to) the loss or postponement of any benefit from the use of tax attributes generated by a member of the other Party's Group or an Affiliate thereof if (x) such tax attributes expire unutilized, but would

have been utilized but for such Carryback, or (y) the use of such tax attributes is postponed to a later taxable period than the taxable period in which such tax attributes would have been utilized but for such Carryback. If there is a Final Determination that results in any change to or adjustment of an Income Tax Benefit Actually Realized by a member of the other Party's Group that is directly attributable to a Carryback, then the other Party (or its designee) shall make a payment to the Carryback Spinco, or the Carryback Spinco shall make a payment to the other Party (or its designee), as may be necessary to adjust the payments between the Carryback Spinco and the other Party (or its designee) to reflect the payments that would have been made under this Section 7(b) had the adjusted amount of such Income Tax Benefit been taken into account in computing the payments due under this Section 7(b).

8. **Cooperation and Exchange of Information.**

(a) **Cooperation and Exchange of Information.** Each Party, on behalf of itself and the members of its Group, agrees to provide each other Party (or its designee) with such cooperation or information as such other Party (or its designee) reasonably shall request in connection with the determination of any payment or any calculations described in this Agreement, the preparation or filing of any Tax Return or claim for Refund, or the conduct of any Proceeding. Such cooperation and information shall include, without limitation, information document requests, revenue agent's reports and similar reports, notices of proposed adjustments and notices of deficiency) received from or sent to any Tax Authority or any other administrative, judicial or governmental authority, (ii) providing copies of all relevant Tax Returns, together with accompanying schedules and related workpapers, documents relating to rulings or other determinations by any Tax Authority, and such other records concerning the ownership and tax basis of property, or other relevant information, (iii) the provision of such additional information and explanations of documents and information provided under this Agreement (including statements, certificates, forms, returns and schedules delivered by either party) as shall be reasonably requested by any of the other Parties (or their designee), (iv) the execution of any document that may be necessary or reasonably helpful in connection with the filing of a Tax Return, a claim for a Refund, or in connection with any Proceeding, including such waivers, consents or powers of attorney as may be necessary for the other Party to exercise its rights under this Agreement, and (v) the use of the Party's reasonable efforts to obtain any documentation from a governmental authority or a third party that may be necessary or reasonably helpful in connection with any of the foregoing. It is expressly the intention of the Parties to take all actions that shall be necessary to establish Parent as the sole agent for Tax purposes of each member of the Spinco Groups with respect to all Combined Returns. Upon reasonable notice, each Party shall make its, or shall cause the members of its respective Group, as applicable, to make their, employees and facilities available on a mutually convenient basis to provide explanation of any documents or information provided hereunder. Any information obtained under this Section 8 shall be kept confidential, except as otherwise reasonably may be necessary in connection with the filing of Tax Returns or claims for Refund or in conducting any Proceeding.

(b) **Retention of Records.** The Parties each agree to retain all Tax Returns, related schedules and workpapers, and all material records and other documents as

required under Section 6001 of the Code and the regulations promulgated thereunder (and any similar provision of state, local, or foreign law) existing on the date hereof or created in respect of (i) any taxable period that ends on or before or includes the Distribution Date or (ii) any taxable period that may be subject to a claim hereunder until the later of (A) the expiration of the statute of limitations (including extensions) for the taxable periods to which such Tax Returns and other documents relate and (B) the Final Determination of any payments that may be required in respect of such taxable periods under this Agreement. From and after the end of the period described in the preceding sentence of this Section 8(b), if a Party or a member of its respective Group wishes to dispose of any such records and documents, then such Party shall provide written notice thereof to the other Parties and shall provide the other Parties the opportunity to take possession of any such records and documents within 90 days after such notice is delivered; provided, however, that if no other Party, within such 90-day period, confirms its intention to take possession of such records and documents, then the Party wishing to destroy or otherwise dispose of such records and documents may do so.

(c) **Remedies.** Each of the Parties hereby acknowledges and agrees that (i) the failure of any member of its respective Group to comply with the provisions of this Section 8 may result in substantial harm to the other Parties, including the inability to determine or appropriately substantiate a Tax Liability (or a position in respect thereof) for which a Party (or a member of its respective Group) would be responsible under this Agreement or appropriately defend against an adjustment thereto by a Tax Authority, (ii) the remedies available to one Party (the "Injured Party") for the breach by a member of another Party (the "Breaching Party") of its obligations under this Section 8 shall include (without limitation) the indemnification by the Breaching Party of the Injured Party for any Tax Liabilities incurred or any tax benefit lost or postponed by reason of such breach and the forfeiture by the Breaching Party of any related rights to indemnification by the Injured Party.

(d) **Reliance.** If any member of a Group supplies ("Supplying Party") information to a member of another Group ("Relying Party") in connection with a Tax Liability and an officer of a member of the Relying Party signs a statement or other document under penalties of perjury in reliance upon the accuracy of such information, then upon the written request of the member of the Relying Party identifying the information being so relied upon, the chief financial officer of Supplying Party (or his or her designee) shall certify in writing that to his knowledge (based upon consultation with appropriate employees) the information so supplied is accurate and complete. Each Party agrees to indemnify and hold harmless each member of the other Groups and its directors, officers and employees from and against any fine, penalty, or other cost or expense of any kind attributable to a member of its respective Group having supplied, pursuant to this Section 8, a member of another Group with inaccurate or incomplete information in connection with a Tax Liability.

9. **Resolution of Disputes.** The provisions of Article 9 of the Separation Agreement (Dispute Resolution) shall apply to any dispute arising in connection with this Agreement; provided, however, that in the case of disputes arising under this Agreement, the relevant Parties shall jointly select the arbitrator, who shall be an attorney or accountant who is generally recognized in the tax community as a qualified and competent tax practitioner with experience in the tax area involved in the issue or issues to be resolved.

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10. **Payments.**

(a) **Method of Payment.** All payments required by this Agreement shall be made by (i) wire transfer to the appropriate bank account as may from time to time be designated by the Parties for such purpose; provided that, on the date of such wire transfer, notice of the transfer is given to the recipient thereof in accordance with Section 11, or (ii) any other method agreed to by the Parties. All payments due under this Agreement shall be deemed to be paid when available funds are actually received by the payee.

(b) **Interest.** Any payment required by this Agreement that is not made on or before the date required hereunder shall bear interest, from and after such date through the date of payment, at the Underpayment Rate.

(c) **Characterization of Payments.** For all Income Tax purposes, the Parties agree to treat, and to cause their respective Affiliates to treat, (i) any payment required by this Agreement or by the Separation Agreement, by (A) Parent to any of the Spinco as a contribution by Parent to the appropriate Spinco occurring immediately prior to the Distribution of such Spinco, (B) a Spinco to Parent as a distribution by such Spinco occurring immediately prior to the Distribution of such Spinco, and (C) a Spinco to another Spinco as a distribution by the first Spinco to Parent occurring immediately before the Distribution of the first Spinco followed by a contribution by Parent to the recipient Spinco occurring immediately before the Distribution of the second Spinco; and (ii) any payment of interest or non-federal Income Taxes by or to a Tax Authority, as taxable or deductible, as the case may be, to the Party entitled under this Agreement to retain such payment or required under this Agreement to make such payment, in either case, except as otherwise mandated by applicable law or a Final Determination; provided that in the event it is determined (A) pursuant to applicable law that it is more likely than not, or (B) pursuant to a Final Determination, that any such treatment is not permissible (or that an Indemnified Party nevertheless suffers a Tax detriment as a result of such payment), the payment in question shall be adjusted to place the Indemnified Party in the same after-tax position it would have enjoyed absent such applicable law or Final Determination.

11. **Compensatory Equity Interests.**

(a) **Allocation of Deductions.** To the extent permitted by applicable law, Income Tax deductions arising by reason of exercises of Options to acquire Parent or Spinco stock, vesting of "restricted" Parent stock or Spinco stock, or settlement of restricted stock units, in each case, following the Distributions, with respect to Parent stock or Spinco stock (such Options, restricted stock and restricted stock units, collectively, "Compensatory Equity Interests") held by any Person shall be claimed (i) in the case of an active employee, solely by the Party that employs such Person at the time of exercise, vesting, or settlement, as applicable, and (ii) in the case of a former employee, solely by the Party that last employed such Person (the Party described in clause (i) or (ii), the "Employing Party").

(b) **Withholding and Reporting.** The Employing Party (or any of its Affiliates) that is entitled to claim the Tax deductions described in 11(a) with respect to Compensatory Equity Interests held by a current or former employee shall be responsible for all applicable Taxes (including, but not limited to, withholding and excise taxes) and shall satisfy, or

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shall cause to be satisfied, all applicable Tax reporting obligations with respect to such Compensatory Equity Interests; provided, that in the event Compensatory Equity Interests are settled by the issuing corporation on a "net basis" that takes into account withholding or other Taxes for which the holder of the Compensatory Equity Interest is responsible, the issuing corporation shall promptly remit to the Employing Party an amount of cash equal to the fair market value of the shares withheld by the issuing corporation in respect of such withholding or other Taxes.

12. **Notices.** Notices, requests, permissions, waivers, and other communications hereunder shall be in writing and shall be deemed to have been duly given upon (a) a transmitter's confirmation of a receipt of a facsimile transmission (but only if followed by confirmed delivery of a standard overnight courier the following Business Day or if delivered by hand the following Business Day), or (b) confirmed delivery of a standard overnight courier or delivered by hand, to the parties at the following addresses (or at such other addresses for a party as shall be specified by like notice):

If to Parent, to:

IAC/InterActiveCorp  
555 West 18th Street  
New York, NY 10011  
Attention: General Counsel  
Telecopier: (212) 632-9642

with a copy to:

Wachtell, Lipton, Rosen & Katz  
51 West 52nd Street  
New York, NY 10019  
Attention: Pamela S. Seymon, Esq.  
Telecopier: (212) 403-2000

If to TM Spinco:

Ticketmaster  
8800 Sunset Boulevard  
West Hollywood, California 90069  
Attention: General Counsel  
Telecopier: (310) -

with a copy to:

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If to Interval Spinco:

Interval Leisure Group, Inc.  
6262 Sunset Drive  
Miami, Florida 33143  
Attention: General Counsel  
Telecopier: (305) -

with a copy to:

[ ]

If to HSN Spinco:

1 HSN Drive  
St. Petersburg, Florida 33729  
Attention: General Counsel  
Telecopier: (727) -

with a copy to:

[ ]

If to Tree Spinco:

11115 Rushmore Drive  
Charlotte, North Carolina 28277  
Attention: General Counsel  
Telecopier: (704) -

with a copy to:

[ ]

Such names and addresses may be changed by notice given in accordance with this Section 12.

13. **Designation of Affiliate.** Each of the Parties may assign any of its rights or obligations under this Agreement to any member of its respective Group as it shall designate; provided, however, that no such assignment shall relieve the Party making the assignment of any obligation hereunder, including any obligation to make a payment hereunder to another Party, to the extent such designee fails to make such payment.

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14. **Miscellaneous.** Except to the extent otherwise provided in this Agreement, this Agreement shall be subject to the provisions of Article 13 (Miscellaneous) of the Separation Agreement to the extent set forth therein.

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IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed on its behalf by its officers thereunto duly authorized, all as of the day and year first written above.

IAC/INTERACTIVECORP

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

Name:

Title:

TICKETMASTER

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

INTERVAL LEISURE GROUP, INC.

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

HSN, INC.

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

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TREE.COM, INC.

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

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**FORM OF  
TRANSITION SERVICES AGREEMENT**

by and among

**IAC/INTERACTIVECORP,**

**HSN, Inc.,**

**INTERVAL LEISURE GROUP, INC.**

**TICKETMASTER**

and

**TREE.COM, INC.**

**TRANSITION SERVICES AGREEMENT**

This TRANSITION SERVICES AGREEMENT, dated as of [•], 2008 (this “Services Agreement”), is entered into by and among IAC/InterActiveCorp, a Delaware corporation (“IAC” or “New IAC”), HSN, Inc., a Delaware corporation and wholly owned subsidiary of IAC (“HSNSpinco” or “HSN”), Interval Leisure Group, Inc., a Delaware corporation and wholly owned subsidiary of IAC (“Interval Spinco” or “Interval”), Ticketmaster, a Delaware corporation and wholly owned subsidiary of IAC (“TMSpinco” or “TM”), and Tree.com, Inc., a Delaware corporation and wholly owned subsidiary of IAC (“Tree Spinco” or “LT” and, together with HSNSpinco, Interval Spinco and TMSpinco, the “Spincos” and, the Spincos together with IAC, the “Parties” and each a “Party”).

WHEREAS, the Board of Directors of IAC has determined it is appropriate and desirable to separate IAC and the Spincos into five publicly-traded companies all as set forth in that certain Separation and Distribution Agreement, dated as of even date herewith, by and among the Parties (the “Separation Agreement”);

WHEREAS, IAC and the Spincos expect to enter into the Separation Agreement on the date hereof, which sets forth, among other things, the assets, liabilities, rights and obligations of each of the Parties for purposes of effecting the separation of IAC and the Spincos; and

WHEREAS, in connection with such separation, (a) each of the Spincos desires to procure certain services from IAC and/or one or more of the other Spincos, and IAC and such other Spincos each are willing to provide such services, during a transition period commencing on the applicable Effective Date (as defined in Section 7.01), on the terms and conditions set forth in this Services Agreement; and (b) IAC desires to procure certain services from the Spincos, and each of the Spincos is willing to provide such services to IAC, during a transition period commencing on the applicable Effective Date, on the terms and conditions set forth in this Services Agreement.

NOW THEREFORE, in consideration of the mutual agreements, covenants and other provisions set forth in this Services Agreement, the Parties hereby agree as follows:

**ARTICLE I**

Definitions

1.01. All terms used herein and not defined herein shall have the meanings assigned to them in the Separation Agreement.

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**ARTICLE II**

Agreement To Provide and Accept Services

2.01. Provision of Services.

(a) On the terms and subject to the conditions contained herein, IAC agrees with each Spinco, as applicable, that it shall provide, or shall cause its Subsidiaries and Affiliates and their respective employees designated by IAC (such designated Subsidiaries, Affiliates and employees, together with IAC, being herein collectively referred to as the “IAC Service Providers”) to provide, to such Spinco the services (“IAC Services”) listed on the Schedule of Services attached hereto (the “Services Schedule”) as being performed by IAC or a member of its Corresponding Group identified in the column of the Services Schedule titled “Spin Party” and being received by such Spinco. Subject to Section 3.01, any decisions as to which of the IAC Service Providers (including the decisions to use third parties) shall provide the IAC Services shall be made by IAC in its sole discretion, except to the extent specified in the Services Schedule. Each IAC Service shall be provided in exchange for the consideration set forth with respect to such IAC Service on the Services Schedule or as IAC and such Spinco may otherwise agree in writing. Each IAC Service shall be provided and accepted in accordance with the terms, limitations and conditions set forth herein and on the Services Schedule.

(b) On the terms and subject to the conditions contained herein, TMSpinco agrees with each other Spinco and IAC, as applicable, that it shall provide, or shall cause its Subsidiaries and Affiliates and their respective employees designated by it (such designated Subsidiaries, Affiliates and employees, together with TMSpinco, being herein collectively referred to as the “Ticketmaster Service Providers”) to provide, to such other Spinco or IAC, as applicable, the services (“Ticketmaster Services”) listed on the Services Schedule as being performed by TM or a member of its Corresponding Group identified in the column of the Services Schedule titled “Spin Party” and being received by such other Spinco or IAC, as applicable. Subject to Section 3.01, any decisions as to which of the Ticketmaster Service Providers (including the decisions to use third parties) shall provide the Ticketmaster Services shall be made by TMSpinco in its sole discretion, except to the extent specified in the Services Schedule. Each Ticketmaster Service shall be provided in exchange for the consideration set forth with respect to such Service on the Services Schedule or as TMSpinco and the applicable recipient of the Ticketmaster Services may otherwise agree in writing. Each Ticketmaster Service shall be provided and accepted in accordance with the terms, limitations and conditions set forth herein and on the Services Schedule.

(c) On the terms and subject to the conditions contained herein, HSNSpinco agrees with each other Spinco and IAC, as applicable, that it shall provide, or shall cause its Subsidiaries and Affiliates and their respective employees designated by it (such designated Subsidiaries, Affiliates and employees, together with HSNSpinco, being herein collectively referred to as the “HSN Service Providers”) to provide, to such other Spinco or IAC, as applicable, the services (“HSN Services”) listed on the Services Schedule as being performed by HSN or a member of its Corresponding Group identified in the column of the Services Schedule titled “Spin Party” and being received by such other Spinco or IAC, as applicable. Subject to

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Section 3.01, any decisions as to which of the HSN Service Providers (including the decisions to use third parties) shall provide the HSN Services shall be made by HSNSpinco in its sole discretion, except to the extent specified in the Services Schedule. Each HSN Service shall be provided in exchange for the consideration set forth with respect to such Service on the Services Schedule or as HSNSpinco and the applicable recipient of the HSN Services may otherwise agree in writing. Each HSN Service shall be provided and accepted in accordance with the terms, limitations and conditions set forth herein and on the Services Schedule.

(d) On the terms and subject to the conditions contained herein, Interval Spinco agrees with each other Spinco and IAC, as applicable, that it shall provide, or shall cause its Subsidiaries and Affiliates and their respective employees designated by it (such designated Subsidiaries, Affiliates and employees, together with Interval Spinco, being herein collectively referred to as the “Interval Service Providers”) to provide, to such other Spinco or IAC, as applicable, the services (“Interval Services”) listed on the attached Services Schedule as being performed by Interval or a member of its Corresponding Group identified in the column of the Services Schedule titled “Spin Party” and being received by such other Spinco or IAC, as applicable. Subject to Section 3.01, any decisions as to which of the Interval Service Providers (including the decisions to use third parties) shall provide the Interval Services shall be made by Interval Spinco in its sole discretion, except to the extent specified in the Services Schedule. Each Interval Service shall be provided in exchange for the consideration set forth with respect to such Service on the Services Schedule or as Interval Spinco and the applicable recipient of the Interval Services may otherwise agree in writing. Each Interval Service shall be provided and accepted in accordance with the terms, limitations and conditions set forth herein and on the Services Schedule.

(e) On the terms and subject to the conditions contained herein, Tree Spinco agrees with each other Spinco and IAC, as applicable, that it shall provide, or shall cause its Subsidiaries and Affiliates and their respective employees designated by it (such designated Subsidiaries, Affiliates and employees, together with Tree Spinco, being herein collectively referred to as the “Tree Service Providers” and together with the IAC Service Providers, the Ticketmaster Service Providers, the HSN Service Providers and the Interval Service Providers, being herein collectively referred to as the “Service Providers”) to provide, to such other Spinco or IAC, as applicable, the services (“Tree Services” and together with the IAC Services, the Ticketmaster Services, the HSN Services and the Interval Services, being herein collectively referred to as the “Services”) listed on the Services Schedule as being performed by LT or a member of its Corresponding Group identified in the column of the Services Schedule titled “Spin Party” and being received by such other Spinco or IAC, as applicable. Subject to Section 3.01, any decisions as to which of the Tree Service Providers (including the decisions to use third parties) shall provide the Tree Services shall be made by Tree Spinco in its sole discretion, except to the extent specified in the Services Schedule. Each Tree Service shall be provided in exchange for the consideration set forth with respect to such Service on the Services Schedule or as Tree Spinco and the applicable recipient of the Tree Services may otherwise agree in writing. Each Tree Service shall be provided and accepted in accordance with the terms, limitations and conditions set forth herein and on the Services Schedule.

(f) As used in this Services Agreement, the term “Receiving Party” shall mean the

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Party receiving (or the Party another member of whose Corresponding Group is receiving) the applicable Services from a Service Provider.

2.02. Books and Records; Availability of Information. Each Party shall create and maintain accurate books and records in connection with the provision of the Services performed or caused to be performed by it and, upon reasonable notice from a Receiving Party, shall make available for inspection and copying by such Receiving Party’s agents such books and records to the extent relating to the Services provided to such Receiving Party hereunder during reasonable business hours with such inspection occurring no more than one (1) time during the term in which the Service Provider has provided the applicable Service to the Receiving Party. Moreover, such inspection shall be conducted by the Receive Party or its agents in a manner that will not unreasonably interfere with the normal business operations of the Service Provider. Each Receiving Party shall make available on a timely basis to the Service Providers all information and materials reasonably requested by such Service Providers to enable them to provide the applicable Services. Each Receiving Party shall provide to the Service Providers reasonable access to such Receiving Party’s premises to the extent necessary for the purpose of providing the applicable Services.

### ARTICLE III

#### Services; Payment; Independent Contractors

3.01. Services To Be Provided. (a) Unless otherwise agreed between the applicable Party providing Services hereunder and the Receiving Party (including to the extent specified in the applicable entry on the Services Schedule), (i) the Service Providers shall be required to perform the Services only in a manner, scope, nature and quality as provided by or within IAC that is similar in all material respects to the manner in which such Services were performed

immediately prior to the applicable Effective Date, and (ii) the Services shall be used for substantially the same purposes and in substantially the same manner (including as to volume, amount, level or frequency, as applicable) as the Services have been used immediately prior to the applicable Effective Date; provided, however, that the applicable entry on the Services Schedule shall control the scope of the Service to be performed (to the extent provided therein), unless otherwise agreed in writing. Each Party and the Service Providers shall act under this Services Agreement solely as an independent contractor and not as an agent or employee of any other Party or any of such Party's Affiliates. As an independent contractor, all overhead and personnel necessary to the Services required of the Service Providers hereunder shall be the Service Provider's sole responsibility and shall be at the Service Provider's sole cost and expense. No Service Provider shall have the authority to bind the Receiving Party by contract or otherwise.

(b) The provision of Services by the Service Providers shall be subject to Article V hereof.

(c) Each Party agrees with each other Party providing Services to it hereunder to use its reasonable efforts to reduce or eliminate its dependency on such Services as soon as is

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reasonably practicable; provided that a breach of this Section 3.01(c) shall not affect a Service Provider's obligation to provide any Service through the term applicable to such Service.

3.02. Each Receiving Party and Party providing Services to it hereunder will use good-faith efforts to reasonably cooperate with each other in all matters relating to the provision and receipt of Services. Such cooperation shall include obtaining all consents, licenses or approvals necessary to permit each such Party to perform its obligations to such Receiving Party hereunder; provided, however, under no circumstances shall any Service Provider be required to make any payments to any third party in respect of any such consents, licenses or approvals nor shall any Service Provider be required to make any alternative arrangements in the event that any such consents, licenses or approvals are not obtained.

3.03. Additional Services.

(a) From time to time during the term applicable to any Service being provided by a Service Provider, each Party may request any of the other Parties (i) to provide additional or different services which such other Party is not expressly obligated to provide under this Services Agreement if such services are of the type and scope provided by such providing Party within IAC during fiscal year 2008 or (ii) expand the scope of any Service (such additional or expanded services, the "Additional Services"). The Party receiving such request shall consider such request in good faith and shall use commercially reasonable efforts to provide such Additional Service; provided, no Party shall be obligated to provide any Additional Services if it does not, in its reasonable judgment, have adequate resources to provide such Additional Services or if the provision of such Additional Services would interfere with the operation of its business. The Party receiving the request for Additional Services shall notify the requesting Party within fifteen (15) days as to whether it will or will not provide the Additional Services.

(b) If a Party agrees to provide Additional Services pursuant to Section 3.03(a), then a representative of each applicable Party shall in good faith negotiate the terms of a supplement to the Services Schedule which will describe in detail the service, project scope, term, schedule impact, price and payment terms to be charged for the Additional Services. Once agreed to in writing, the supplement to the Services Schedule shall be deemed part of this Services Agreement as of such date and the Additional Services shall be deemed "Services" provided by such Service Provider to such Receiving Party hereunder, in each case subject to the terms and conditions of this Agreement.

3.04. Payments. Except as set forth on the Services Schedule, statements will be delivered to each applicable Receiving Party within fifteen (15) days after the end of each month by the Service Providers designated by each providing Party for Services provided by such Service Provider to the Receiving Party during the preceding month, and each such statement shall set forth a brief description of such Services, the amounts charged therefor, and, except as the applicable providing Party and Receiving Party may agree or as set forth on the Services Schedule, such amounts shall be due and payable by the Receiving Party within thirty (30) days after the date of such statement. Statements not paid within such 30-day period shall be subject to late charges, calculated at an interest rate per annum equal to the Prime Rate plus 2% (or the maximum legal rate, whichever is lower), and calculated for the actual number of days elapsed,

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accrued from the date on which such payment was due up to the date of the actual receipt of payment. Payments shall be made by wire transfer to an account designated in writing from time to time by the applicable Service Provider.

3.05. Disclaimer of Warranty. EXCEPT AS EXPRESSLY SET FORTH IN THIS SERVICES AGREEMENT, THE SERVICES TO BE PURCHASED UNDER THIS SERVICES AGREEMENT ARE FURNISHED AS IS, WHERE IS, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. In the event that the provision of any Service for the account of a Receiving Party by a Service Provider conflicts with such Service Provider's provision of such Service for its own account or the account of other Receiving Parties, priority for the provision of such Service shall be allocated in an equitable manner on an aggregate basis, and in a manner consistent with the Receiving Party's level of use of such Service during fiscal year 2008 up to the applicable Effective Date (or as described in the applicable entry on the Services Schedule).

3.06. Taxes. In the event that any Tax is properly chargeable on the provision of the Services as indicated in the applicable entry on the Services Schedule, the Receiving Party shall be responsible for and shall pay to the applicable Service Provider the amount of any such Tax in addition to and at the same time as the applicable Service fees. All Service fees and other consideration will be paid free and clear of and without withholding or deduction for or on account of any Tax, except as may be required by law.

3.07. Use of Services. Each party, in its capacity as a Receiving Party agrees with each applicable providing Party that it shall not, and shall cause its Affiliates not to, resell any Services to any person whatsoever or permit the use of the Services by any person other than in connection with the conduct of such Receiving Party's operations as conducted immediately prior to the applicable Effective Date.

## Term of Services

4.01. Subject to Section 7.01, the provision of each Service shall commence on the date hereof and shall terminate no later than twelve (12) months after the date hereof or as of the date indicated for each such Service in the applicable entry on the Services Schedule; provided, however, that subject to the applicable entry on the Services Schedule, any Service may be cancelled or reduced in amount or any portion thereof by the Receiving Party upon ninety (90) days written notice thereof (or such other notice period if one is set forth for such Service in the applicable entry on the Services Schedule) to the applicable Service Provider subject to the requirement that such Receiving Party pay to the applicable Service Provider the actual out-of-pocket costs incurred by such Service Provider, as well as the actual incremental internal costs incurred by such Service Provider, in each case directly resulting from such cancellation (including employee severance and other termination costs), which out-of-pocket and internal costs shall be set forth in a written statement provided by such Service Provider to the Receiving

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Party; provided, further, that such costs shall not exceed amounts payable hereunder in respect of the applicable Service for the ninety (90) days prior to such termination. The forgoing notwithstanding and subject to Section 7.02, (i) a Service Provider may immediately terminate any individual Service provided to a Receiving Party in the event that the Receiving Party fails to make payments for such Service under Section 3.02 and has not cured such failure within thirty (30) days of written notice of such failure from the applicable Service Provider, and (ii) upon ninety (90) days written notice, the Service Provider may terminate any Service provided to a Receiving Party at such time as the Service Provider no longer provides the same Service to itself for its own account.

4.02. In the event a Receiving Party requests an extension of the term applicable to the provision of Services, such request shall be considered in good faith by the applicable Service Provider. Any terms, conditions or costs or fees to be paid by the Receiving Party for Services provided during an extended term will be on terms mutually acceptable to such Service Provider and Receiving Party. For the avoidance of doubt, under no circumstances shall a Service Provider be required to extend the term of provision of any Service if (i) the Service Provider does not, in its reasonable judgment, have adequate resources to continue providing such Services, (ii) the extension of the term would interfere with the operation of the Service Provider's business or (iii) the extension would require capital expenditure on the part of the Service Provider or otherwise require the Service Provider to renew or extend any Contract with any third party.

## ARTICLE V

### Force Majeure

5.01. The Service Providers shall not be liable for any expense, loss or damage whatsoever arising out of any interruption of Service or delay or failure to perform under this Services Agreement that is due to acts of God, acts of a public enemy, acts of terrorism, acts of a nation or any state, territory, province or other political division thereof, changes in applicable law, fires, hurricanes, floods, epidemics, riots, theft, quarantine restrictions, freight embargoes or other similar causes beyond the reasonable control of the Service Providers. In any such event, the applicable Service Provider's obligations hereunder shall be postponed for such time as its performance is suspended or delayed on account thereof, provided that if the force majeure event continues for more than forty-five (45) days, the Service Provider may cancel unperformed Services upon written notice to the Receiving Party. Each Service Provider will promptly notify the recipient of the Service, either orally or in writing, upon learning of the occurrence of such event of force majeure. Upon the cessation of the force majeure event, such Service Provider will use commercially reasonable efforts to resume, or to cause any other relevant Service Provider to resume, its performance with the least practicable delay (provided that, at the election of the applicable Receiving Party, the applicable term for such suspended Service shall be extended by the length of the force majeure event unless such event has continued for more than 45 days in which case the Service may be cancelled by the Service Provider).

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## ARTICLE VI

### Liabilities

6.01. Consequential and Other Damages. None of the Service Providers shall be liable to any Receiving Party with respect to this Services Agreement, whether in contract, tort (including negligence and strict liability) or otherwise, for any special, indirect, incidental or consequential damages whatsoever (except, in each case, to the extent any amount is paid to third parties by such Receiving Party or its Affiliates) which in any way arise out of, relate to or are a consequence of, the performance or nonperformance by it hereunder or the provision of, or failure to provide, any Service hereunder, including with respect to loss of profits, business interruptions or claims of customers.

6.02. Limitation of Liability. Subject to Section 6.03 hereof, the liability of any Service Provider with respect to this Services Agreement to any Receiving Party or in respect of any Services provided to such Receiving Party or any act or failure to act in connection herewith (including, but not limited to, the performance or breach hereof), or from the sale, delivery, provision or use of any Service provided under or covered by this Services Agreement, whether in contract, tort (including negligence and strict liability) or otherwise, shall be limited to actions or omissions resulting from intentional breach of this Services Agreement or gross negligence, and, in any event, such liability shall not exceed the fees previously paid to such Service Provider by such Receiving Party during the term of the applicable Service giving rise thereto.

6.03. Obligation to Re-perform. In the event of any breach of this Services Agreement by any Service Provider resulting from any error or defect in the performance of any Service (which breach such Service Provider can reasonably be expected to cure by re-performance in a commercially reasonable manner), the Service Provider shall use its reasonable commercial efforts to correct in all material respects such error, defect or breach or re-perform in all material respects such Service upon receipt of the written request of the applicable Receiving Party.

6.04. Indemnity. Except as otherwise provided in this Service Agreement (including the limitation of liability provisions in this Article VI), each Party shall indemnify, defend and hold harmless each other Party from and against any Liability arising out of the intentional breach hereunder or gross negligence of the Indemnifying Party or its Affiliates, employees, agents, or contractors (including with respect to the performance or nonperformance of any Service hereunder). The procedures set forth in Sections 6.04 and 6.05 of the Separation Agreement shall apply to any claim for indemnification hereunder.

## ARTICLE VII

### Effectiveness; Certain Deemed References; Termination

7.01. Effectiveness; Certain Substitutions. The provision of Services hereunder to any Spinco by each other applicable Party and to each other applicable Party by such Spinco shall commence as of the Distribution Date for such Spinco (the time of commencement of the provision of such Services being referred to as the “applicable Effective Date”); provided, that in

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the event Services are contemplated to be provided hereunder to such Spinco by another Spinco (a “Later-Spun Spinco”) the spinoff of which shall not have been effected prior to or substantially simultaneously with the spinoff of such first-mentioned Spinco, references herein and in the Services Schedule to such Later-Spun Spinco in its capacity as Service Provider to such first-mentioned Spinco shall be deemed references to IAC until the Distribution Date for such Later-Spun Spinco; and, provided, further, that in the event Services are contemplated to be provided hereunder by such first-mentioned Spinco to any Later-Spun Spinco, to the extent requested in writing by IAC (a) references herein and in the Services Schedule to such Later-Spun Spinco in its capacity as Receiving Party of Services from such Spinco shall be deemed references to IAC until the Distribution Date for such Later-Spun Spinco or (b) the provision of such Service shall be suspended until the Distribution Date for such Later-Spun Spinco (it being understood that any such suspension shall not increase the term during which the Service Provider would otherwise have been required to provide such Service).

7.02. Termination. Notwithstanding anything herein to the contrary, with respect to each pair of Parties (i.e., with respect to IAC and TMSpinco; IAC and HSNSpinco; IAC and Interval Spinco; IAC and Tree Spinco; TMSpinco and HSN Spinco; TMSpinco and Interval Spinco; TMSpinco and Tree Spinco; HSNSpinco and Interval Spinco; HSNSpinco and Tree Spinco; and Interval Spinco and Tree Spinco) the rights and obligations of each such Party in respect of such other Party under this Services Agreement shall terminate, and the obligation of the applicable Service Provider to provide or cause to be provided any applicable Service shall cease, on the earliest to occur of (i) the last date indicated for the termination of any Service provided by one such Party to the other such Party on the Services Schedule, as the case may be, (ii) the date on which the provision of all Services by either such Party to the other such Party has been cancelled pursuant to Article IV or Article V hereof or (iii) the date on which this Services Agreement, to the extent of the rights and obligations of such pair of Parties to each other, is terminated by either such Party, as the case may be, in accordance with the terms of Section 7.03 hereof; provided that, in each case, no such termination shall relieve any Party of any liability for any breach of any provision of this Services Agreement prior to the date of such termination.

7.03. Breach of Services Agreement; Dispute Resolution. Subject to Article VI hereof, and without limiting a Party’s obligations under Section 4.01, if a Party shall cause or suffer to exist any material breach of any of its obligations to any other Party (the “Nonbreaching Party”) under this Services Agreement, including any failure to make a payment within thirty (30) days after receipt of the statement describing the Services provided for pursuant to Section 3.04 with respect to more than one Service provided hereunder, and such breaching Party does not cure such default in all material respects within thirty (30) days after receiving written notice thereof from the Nonbreaching Party, the Nonbreaching Party shall have the right to terminate this Services Agreement to the extent of the rights and obligations of such Nonbreaching Party and breaching Party to each other hereunder immediately thereafter. In the event a dispute arises between two or more Parties regarding the terms of this Services Agreement, such dispute shall be governed by Article IX of the Separation Agreement.

7.03. Sums Due. In addition to any other payments required pursuant to this Services Agreement, in the event of a termination of this Services Agreement with respect to the rights and obligations of a Service Provider and a Receiving Party to each other, such Service Provider

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shall be entitled to the immediate payment of, and such Receiving Party shall within three (3) Business Days, pay to such Service Provider, all accrued amounts for Services, Taxes and other amounts due from such Receiving Party to such Service Provider under this Services Agreement as of the date of termination.

7.04. Effect of Termination. Section 2.02 hereof and Articles V, VI, VII and VIII hereof shall survive any termination or partial termination of this Services Agreement.

## ARTICLE VIII

### Miscellaneous

8.01. Incorporation of Separation Agreement Provisions. The provisions of Article XIII of the Separation Agreement are hereby incorporated herein by reference, and unless otherwise expressly specified herein, such provisions shall apply as if fully set forth herein.

8.02. Ownership of Work Product. Subject to the Separation Agreement, (i) each Service Provider acknowledges and agrees that it will acquire no right, title or interest (including any license rights or rights of use) to any work product resulting from the provision of Services hereunder for the Receiving Party’s exclusive use and such work product shall remain the exclusive property of the Receiving Party and (ii) each Receiving Party acknowledges and agrees that it will acquire no right, title or interest (other than a non-exclusive, worldwide right of use) to any work product resulting from the provision of Services hereunder that is not for the Receiving Party’s exclusive use and such work product shall remain the exclusive property, subject to license, of the Service Provider.

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IN WITNESS WHEREOF, the Parties have caused this Services Agreement to be executed by their duly authorized representatives.

IAC/InterActiveCorp,  
a Delaware corporation

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Name:  
Title:

HSN, Inc.,  
a Delaware corporation

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Name:  
Title:

Interval Leisure Group, Inc.,  
a Delaware corporation

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Name:  
Title:

Ticketmaster,  
a Delaware corporation

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Name:  
Title:

Tree.com, Inc.,  
a Delaware corporation

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Name:  
Title:

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**Schedule of Services**

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**FORM OF  
EMPLOYEE MATTERS AGREEMENT**

**BY AND AMONG**

**IAC/INTERACTIVECORP**

**TICKETMASTER,**

**INTERVAL LEISURE GROUP, INC.,**

**HSN, INC.,**

**AND**

**TREE.COM, INC.**

**Dated as of [     ], 2008**

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## EMPLOYEE MATTERS AGREEMENT

This Employee Matters Agreement (this "Agreement"), dated as of [ ], 2008, with effect as of the Effective Time, is entered into by and among IAC/InterActiveCorp, a Delaware corporation ("IAC"), Ticketmaster, a Delaware corporation and a wholly owned subsidiary of IAC ("TM"), Interval Leisure Group, Inc., a Delaware corporation and a wholly owned subsidiary of IAC ("Interval"), HSN, Inc., a Delaware corporation and a wholly owned subsidiary of IAC ("HSN") and Tree.com, Inc., a Delaware corporation and a wholly owned subsidiary of IAC ("Tree," together with TM, Interval, HSN and Tree, the "SpinCos," the SpinCos and IAC, collectively, the "Parties").

### RECITALS:

WHEREAS, IAC, TM, Interval, HSN and Tree have entered into a Separation Agreement pursuant to which the Parties have set out the terms on which, and the conditions subject to which, they wish to implement the Separation (as defined in the Separation Agreement) (such agreement, as amended, restated or modified from time to time, the "Separation Agreement").

WHEREAS, in connection therewith, IAC, TM, Interval, HSN and Tree have agreed to enter into this Agreement to allocate between them assets, liabilities and responsibilities with respect to certain employee compensation, pension and benefit plans, programs and arrangements and certain employment matters.

NOW THEREFORE, in consideration of the mutual agreements, covenants and other provisions set forth in this Agreement, the Parties hereby agree as follows:

### ARTICLE I DEFINITIONS

Unless otherwise defined in this Agreement, capitalized words and expressions and variations thereof used in this Agreement or in its Appendices have the meanings set forth below. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Separation Agreement.

"Adjustment Ratio" means (a) the IAC Stock Value divided by (b) the sum of (i) 0.5 of the IAC Post-Separation Stock Value plus (ii) 0.2 of the Ticketmaster Stock Value (or if IAC does not distribute shares of TM Common Stock on the Distribution Date, zero) plus (iii) 0.2 of the Interval Stock Value (or if IAC does not distribute shares of Interval Common Stock on the Distribution Date, zero) plus (iv) 0.2 of the HSN Stock Value (or if IAC does not distribute shares of HSN Common Stock on the Distribution Date, zero) plus (v) 0.03333 of the Tree Stock Value (or if IAC does not distribute shares of Tree Common Stock on the Distribution Date, zero).

"Active HSN Participants" has the meaning set forth in Section 5.5(c).

"Affiliate" has the meaning given that term in the Separation Agreement.

"Agreement" means this Employee Matters Agreement, including all the Schedules hereto.

"Ancillary Agreements" has the meaning given that term in the Separation Agreement.

"Approved Leave of Absence" means an absence from active service (a) due to an individual's inability to perform his or her regular job duties by reason of illness or injury and resulting in eligibility to receive benefits pursuant to the terms of the IAC Short-Term Disability Plan or the IAC Long-Term Disability Plan, or (b) pursuant to an approved leave policy with a guaranteed right of reinstatement.

"ASO Contract" has the meaning set forth in Section 4.4(a).

"Auditing Party" has the meaning set forth in Section 6.4(b).

"Award" (a) when immediately preceded by "IAC," means IAC Restricted Stock and IAC Restricted Stock Units, (b) when immediately preceded by "TM," means TM Restricted Stock and TM Restricted Stock Units, (c) when immediately preceded by "Interval," means Interval Restricted Stock and Interval Restricted Stock Units, (d) when immediately preceded by "HSN," means HSN Restricted Stock and HSN Restricted Stock Units and (e) when immediately preceded by Tree means Tree Restricted Stock and Tree Restricted Stock Units.

"Benefit Plan" means, with respect to an entity or any of its Subsidiaries, (a) each "employee welfare benefit plan" (as defined in Section 3(1) of ERISA) and all other employee benefits arrangements, policies or payroll practices (including, without limitation, severance pay, sick leave, vacation pay, salary continuation, disability, retirement, deferred compensation, bonus, stock option or other equity-based compensation, hospitalization, medical insurance or life insurance) sponsored or maintained by such entity or by any of its Subsidiaries (or to which such entity or any of its Subsidiaries contributes or is required to contribute) and (b) all "employee pension benefit plans" (as defined in Section 3(2) of ERISA), occupational pension plan or arrangement or other pension arrangements sponsored, maintained or contributed to by such entity or any of its Subsidiaries (or to which such entity or any of its Subsidiaries contributes or is required to contribute). For the avoidance of doubt, "Benefit Plans" includes Health and Welfare Plans. When immediately preceded by "IAC," Benefit Plan means any Benefit Plan sponsored, maintained or contributed to by IAC or any IAC Entity. When immediately preceded by "TM," Benefit Plan means any Benefit Plan sponsored, maintained or contributed to by TM or any TM Entity. When immediately preceded by "Interval," Benefit Plan means any Benefit Plan sponsored, maintained or contributed to by Interval or any Interval Entity. When immediately preceded by "HSN," Benefit Plan means any Benefit Plan sponsored, maintained or contributed to by HSN or any HSN Entity. When immediately preceded by "Tree," Benefit Plan means any Benefit Plan sponsored, maintained or contributed to by Tree or any Tree Entity.

“Cliff Vest” with respect to any Award means the lump-sum vesting of 100% of such Award following the passage of a multi-year period after the date of grant. The terms “Cliff Vesting” and “Cliff Vested” shall have correlative meanings.

“Close of the Distribution Date” means 11:59:59 P.M., Eastern Standard Time or Eastern Daylight Time (whichever shall then be in effect), on the Distribution Date.

“COBRA” means the continuation coverage requirements for “group health plans” under Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, and as codified in Code § 4980B and ERISA §§ 601 through 608.

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“Code” means the Internal Revenue Code of 1986, as amended, or any successor federal income tax law. Reference to a specific Code provision also includes any proposed, temporary or final regulation in force under that provision.

“Committee” has the meaning set forth in Section 5.3(a).

“Distribution Date” means the first date on which one or more of the Distributions (as defined in the Separation Agreement) occurs.

“Effective Time Year” means the calendar year during which the Effective Time occurs.

“Effective Time” has the meaning given that term in the Separation Agreement.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended. Reference to a specific provision of ERISA also includes any proposed, temporary or final regulation in force under that provision.

“FICA” has the meaning set forth in Section 5.3(g)(ii)(A).

“FICA Amount” has the meaning set forth in Section 5.3(g)(ii)(A).

“Former HSN Employee” means any individual who as of the Effective Time is a former employee of the IAC Group, the TM Group, the Interval Group, the HSN Group or the Tree Group, and whose last employment with any such group, was with an HSN Entity.

“Former IAC Employee” means any individual who as of the Effective Time is a former employee of the IAC Group, the TM Group, the Interval Group, the HSN Group or the Tree Group, and whose last employment with any such group, was with an IAC Entity.

“Former Interval Employee” means any individual who as of the Effective Time is a former employee of the IAC Group, the TM Group, the Interval Group, the HSN Group or the Tree Group, and whose last employment with any such group, was with an Interval Entity.

“Former SpinCo Employee” means a Former TM Employee, Former Interval Employee, Former HSN Employee and/or Former Tree Employee as the context requires.

“Former TM Employee” means any individual who as of the Effective Time is a former employee of the IAC Group, the TM Group, the Interval Group, the HSN Group or the Tree Group, and whose last employment with any such group, was with a TM Entity.

“Former Tree Employee” means any individual who as of the Effective Time is a former employee of the IAC Group, the TM Group, the Interval Group, the HSN Group or the Tree Group, and whose last employment with any such group, was with a Tree Entity.

“Group Insurance Policies” has the meaning set forth in Section 4.4(a).

“Growth Share Awards” has the meaning set forth in Section 5.3(g).

“H&W Transition Period” has the meaning set forth in Section 4.1(a).

“Health and Welfare Plans” means any plan, fund or program which was established or is maintained for the purpose of providing for its participants or their beneficiaries,

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through the purchase of insurance or otherwise, medical, dental, surgical or hospital care or benefits, or benefits in the event of sickness, accident, disability, death or unemployment, or vacation benefits, apprenticeship or other training programs or day care centers, scholarship funds, or prepaid legal services, including any such plan, fund or program as defined in Section 3(1) of ERISA. When immediately preceded by “IAC,” Health and Welfare Plans means each Health and Welfare Plan that is an IAC Benefit Plan. When immediately preceded by “TM,” Health and Welfare Plans means each Health and Welfare Plan that is a TM Benefit Plan. When immediately preceded by “Interval,” Health and Welfare Plans means each Health and Welfare Plan that is an Interval Benefit Plan. When immediately preceded by “HSN,” Health and Welfare Plans means each Health and Welfare Plan that is an HSN Benefit Plan. When immediately preceded by “Tree,” Health and Welfare Plans means each Health and Welfare Plan that is a Tree Benefit Plan.

“HIPAA” means the health insurance portability and accountability requirements for “group health plans” under the Health Insurance Portability and Accountability Act of 1996, as amended.

“HMO Agreements” has the meaning set forth in Section 4.4(a).

“HMO” means a health maintenance organization that provides benefits under the IAC Medical Plans, the TM Medical Plans, the Interval Medical Plans, the HSN Medical Plans or the Tree Medical Plans.

“HSN” has the meaning set forth in the Preamble of this Agreement.

“HSN Common Stock” means common stock, par value \$0.01 per share, of HSN.

“HSN Deferred Compensation Plan” has the meaning set forth in Section 5.5(c).

“HSN Employee” means any individual who, immediately prior to the Effective Time, is either actively employed by, or then on Approved Leave of Absence from, an HSN Entity.

“HSN Entities” has the meaning given that term in the Separation Agreement.

“HSN Executive Benefit Plans” means the executive benefit and nonqualified plans, programs, and arrangements established, sponsored, maintained, or agreed upon, by any HSN Entity for the benefit of employees and former employees of any HSN Entity before the Close of the Distribution Date.

“HSN Factor” means the product obtained by multiplying (a) 0.2 and (b) the Adjustment Ratio.

“HSN Long-Term Incentive Plan” means the long-term incentive plan or program to be established by HSN, effective immediately prior to the Distribution Date.

“HSN Ratio” means the quotient obtained by dividing the IAC Stock Value by the HSN Stock Value.

“HSN Retirement Savings Plan” means the 401(k) and profit sharing plan to be established by HSN pursuant to Section 3.1 of this Agreement, as in effect as of the time relevant to the applicable provision of this Agreement.

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“HSN Retirement Savings Plan Trust” means a trust relating to the HSN Retirement Savings Plan intended to qualify under Section 401(a) and be exempt under Section 501(a) of the Code.

“HSN Stock Value” means the closing per-share price of HSN Common Stock in the “when issued market” as listed on the NASDAQ as of 4:00 P.M. Eastern Standard Time in the last completed trading session immediately preceding the Effective Time.

“IAC” has the meaning set forth in the Preamble of this Agreement.

“IAC Common Stock” means shares of common stock, \$0.001 par value per share, of IAC.

“IAC Employee” means any individual who, immediately prior to the Close of the Distribution Date, is either actively employed by, or then on Approved Leave of Absence from, any IAC Entity.

“IAC Entities” means the members of the IAC Group, as defined in the Separation Agreement, and their respective Subsidiaries and Affiliates, excluding any business or operations (whether current or historical, regardless of whether discontinued or sold) that are included in the TM Group, the Interval Group, the HSN Group or the Tree Group.

“IAC Executive Benefit Plans” means the executive benefit and nonqualified plans, programs, and arrangements established, sponsored, maintained, or agreed upon, by any IAC Entity for the benefit of employees and former employees of any IAC Entity before the Close of the Distribution Date.

“IAC Deferred Compensation Plan” has the meaning set forth in Section 5.5(a).

“IAC Factor” means the product obtained by multiplying (a) 0.5 and (b) the Adjustment Ratio.

“IAC Flexible Benefit Plan” has the meaning set forth in Section 4.5.

“IAC Incentive Plans” means any of the annual or short term incentive plans of IAC, all as in effect as of the time relevant to the applicable provisions of this Agreement.

“IAC Long-Term Incentive Plans” means any of the Silver King Communications, Inc. 1995 Stock Incentive Plan, HSN, Inc. 1997 Stock and Annual Incentive Plan, USA Interactive Amended and Restated 2000 Annual Stock and Incentive Plan, IAC/InterActiveCorp 2005 Stock and Annual Incentive Plan, Home Shopping Network, Inc. 1996 Stock Option Plan for Employees, Equity and Bonus Compensation Agreement with Barry Diller, TM, Inc. 1999 Amended and Restated Stock Option Plan, the Hotels Reservations Network, Inc. 2000 Stock Plan, Ticketmaster Online-Citysearch, Inc. 1996 Stock Option Plan, Ticketmaster Online-Citysearch, Inc. 1998 Stock Option Plan, Ticketmaster 1999 Stock Plan, and Ticketweb, Inc. 2000 Stock Plan, Styleclick, Inc. 1995 Stock Option Plan, Servicemagic, Inc. Amended and Restated 1999 Stock Option Plan, Precision Response Corporation Amended and Restated 1996 Incentive Stock Plan, TM, Inc. Amended and Restated 2001 Stock Plan, 1998 Stock Option Plan of LendingTree, Inc., Amended and Restated Stock Incentive Plan of LendingTree, Inc., the Silver King Communications, Inc. Directors Stock Option Plan, Hotwire, Inc. 2000 Equity Incentive Plan and any other stock incentive plan of IAC, all as in effect as of the time relevant to the

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applicable provisions of this Agreement.

“IAC Post-Separation Stock Value” means the closing per-share price of IAC Common Stock trading in the “ex-distribution market” as listed on the NASDAQ as of 4:00 P.M. Eastern Standard Time in the last completed trading session immediately preceding the Effective Time.

“IAC Rabbi Trust” has the meaning set forth in Section 5.5(a).

“IAC Ratio” means the quotient obtained by dividing the IAC Stock Value by the IAC Post-Separation Stock Value.

“IAC Retirement Savings Plan” means the InterActiveCorp Retirement Savings Plan as in effect as of the time relevant to the applicable provision of this Agreement.

“IAC Stock Value” means the closing per share price of IAC Common Stock trading “regular way with due bills” as listed on the NASDAQ as of 4:00 P.M., Eastern Standard Time in the last completed trading session immediately preceding the Effective Time.

“Immediately after the Distribution Date” means on the first moment of the day after the Distribution Date.

“Interval” has the meaning set forth in the Preamble of this Agreement.

“Interval Common Stock” means common stock, par value \$0.01 per share, of Interval.

“Interval Employee” means any individual who, immediately prior to the Effective Time, is either actively employed by, or then on Approved Leave of Absence from, an Interval Entity.

“Interval Entities” has the meaning given that term in the Separation Agreement.

“Interval Executive Benefit Plans” means the executive benefit and nonqualified plans, programs, and arrangements established, sponsored, maintained, or agreed upon, by any Interval Entity for the benefit of employees and former employees of any Interval Entity before the Close of the Distribution Date.

“Interval Factor” means the product obtained by multiplying (a) 0.2 and (b) the Adjustment Ratio.

“Interval Long-Term Incentive Plan” means the long-term incentive plan or program to be established by Interval, effective immediately prior to the Distribution Date.

“Interval Ratio” means the quotient obtained by dividing the IAC Stock Value by the Interval Stock Value.

“Interval Retirement Savings Plan Trust” means a trust relating to the Interval Retirement Savings Plan intended to qualify under Section 401(a) and be exempt under Section 501(a) of the Code.

“Interval Retirement Savings Plan” means the 401(k) and profit sharing plan to be established by Interval pursuant to Section 3.1 of this Agreement, as in effect as of the time relevant to the applicable provision of this Agreement.

“Interval Stock Value” means the closing per-share price of Interval Common Stock in the “when issued market” as listed on the NASDAQ as of 4:00 P.M. Eastern Standard Time in the last completed trading session immediately preceding the Effective Time.

“Liability” has the meaning given that term in the Separation Agreement.

“Medical Plan” when immediately preceded by “IAC,” means the Benefit Plan under which medical benefits are provided to IAC Employees established and maintained by IAC. When immediately preceded by TM, Medical Plan means the Benefit Plan under which medical benefits are provided to TM Employees to be established by TM pursuant to Article IV. When immediately preceded by Interval, Medical Plan means the Benefit Plan under which medical benefits are provided to Interval Employees to be established by Interval pursuant to Article IV. When immediately preceded by HSN, Medical Plan means the Benefit Plan under which medical benefits are provided to HSN Employees to be established by HSN pursuant to Article IV. When immediately preceded by Tree, Medical Plan means the Benefit Plan under which medical benefits are provided to Tree Employees to be established by Tree pursuant to Article IV.

“NASDAQ” means the National Association of Securities Dealers Inc. Automated Quotation System.

“Net RSU Shares” has the meaning set forth in Section 5.3(l).

“Non-parties” has the meaning set forth in Section 6.4(c).

“Option” when immediately preceded by “IAC,” means an option (either nonqualified or incentive) to purchase shares of IAC Common Stock pursuant to an IAC Long-Term Incentive Plan. When immediately preceded by “TM,” Option means an option (either nonqualified or incentive) to purchase shares of TM Common Stock following the Effective Time pursuant to the TM Long-Term Incentive Plan. When immediately preceded by “Interval,” Option means an option (either nonqualified or incentive) to purchase shares of Interval Common Stock following the Effective Time pursuant to the Interval Long-Term Incentive Plan. When immediately preceded by “HSN,” Option means an option (either nonqualified or incentive) to purchase shares of HSN Common Stock following the Effective Time pursuant to the HSN Long-Term Incentive Plan. When immediately preceded by “Tree,” Option means an option (either nonqualified or incentive) to purchase shares of Tree Common Stock following the Effective Time pursuant to the Tree Long-Term Incentive Plan.

“Participating Company” means (a) IAC and (b) any other Person (other than an individual) that participates in a plan sponsored by any IAC Entity.

“Parties” has the meaning set forth in the Preamble of this Agreement.

“Person” has the meaning given that term in the Separation Agreement.

“PV IAC Restricted Stock Units” has the meaning set forth in Section 5.3(g).

“Restricted Stock” (a) when immediately preceded by “IAC,” means shares of IAC Common Stock that are subject to restrictions on transferability and a risk of forfeiture and

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are issued under an IAC Benefit Plan, (b) when immediately preceded by “TM,” means shares of TM Common Stock that are subject to restrictions on transferability and a risk of forfeiture and are issued under a TM Benefit Plan, (c) when immediately preceded by “Interval,” means shares of Interval Common Stock that are subject to restrictions on transferability and a risk of forfeiture and are issued under an Interval Benefit Plan, (d) when immediately preceded by “HSN,” means shares of HSN Common Stock that are subject to restrictions on transferability and a risk of forfeiture and are issued under an HSN Benefit Plan and (e) when immediately preceded by “Tree,” means shares of Tree Common Stock that are subject to restrictions on transferability and a risk of forfeiture and are issued under a Tree Benefit Plan.

“Restricted Stock Unit” (a) when immediately preceded by “IAC,” means units issued under an IAC Benefit Plan representing a general unsecured promise by IAC to pay the value of shares of IAC Common Stock in cash or shares of IAC Common Stock, (b) when immediately preceded by “TM,” means units issued under the TM Long-Term Incentive Plan representing a general unsecured promise by TM to pay the value of shares of TM Common Stock in cash or shares of TM Common Stock, (c) when immediately preceded by “Interval,” means units issued under the Interval Long-Term Incentive Plan representing a general unsecured promise by Interval to pay the value of shares of Interval Common Stock in cash or shares of Interval Common Stock, (d) when immediately preceded by “HSN,” means units issued under the HSN Long-Term Incentive Plan representing a general unsecured promise by HSN to pay the value of shares of HSN Common Stock in cash or shares of HSN Common Stock, (e) when immediately preceded by “Tree,” means units issued under the Tree Long-Term Incentive Plan representing a general unsecured promise by Tree to pay the value of shares of Tree Common Stock in cash or shares of Tree Common Stock.

“Separation” has the meaning given that term in the Separation Agreement.

“Separation Agreement” has the meaning set forth in the recitals to this Agreement.

“SpinCos” has the meaning set forth in the Preamble of this Agreement.

“SpinCo Employee” means a TM Employee, Interval Employee, HSN Employee and/or Tree Employee as the context requires.

“TM” has the meaning set forth in the Preamble of this Agreement.

“TM Common Stock” means common stock, par value \$0.01 per share, of TM.

“TM Deferred Compensation Plan” has the meaning set forth in Section 5.5(a).

“TM Employee” means any individual who, immediately prior to the Effective Time, is either actively employed by, or then on Approved Leave of Absence from, a TM Entity.

“TM Entities” has the meaning given that term in the Separation Agreement.

“TM Executive Benefit Plans” means the executive benefit and nonqualified plans, programs, and arrangements established, sponsored, maintained, or agreed upon, by any TM Entity for the benefit of employees and former employees of any TM Entity before the Close of the Distribution Date.

“TM Factor” means the product obtained by multiplying (a) 0.2 and (b) the Adjustment Ratio.

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“TM Long-Term Incentive Plan” means the long-term incentive plan or program to be established by TM, effective immediately prior to the Distribution Date.

“TM Participants” has the meaning set forth in Section 5.5(a).

“TM Rabbi Trust” has the meaning set forth in Section 5.5(a).

“TM Ratio” means the quotient obtained by dividing the IAC Stock Value by the TM Stock Value.

“TM Retirement Savings Plan” means the 401(k) and profit sharing plan to be established by TM pursuant to Section 3.1 of this Agreement, as in effect as of the time relevant to the applicable provision of this Agreement.

“TM Retirement Savings Plan Trust” means a trust relating to the TM Retirement Savings Plan intended to qualify under Section 401(a) and be exempt under Section 501(a) of the Code.

“TM Stock Value” means the closing per-share price of TM Common Stock in the “when issued market” as listed on the NASDAQ as of 4:00 P.M. Eastern Standard Time in the last completed trading session immediately preceding the Effective Time.

“Tree” has the meaning set forth in the Preamble of this Agreement.

“Tree Common Stock” means common stock, par value \$0.01 per share, of Tree.

“Tree Deferred Compensation Plan” has the meaning set forth in Section 5.5(d).

“Tree Employee” means any individual who, immediately prior to the Effective Time, is either actively employed by, or then on Approved Leave of Absence from, a Tree Entity.

“Tree Entities” has the meaning given that term in the Separation Agreement.

“Tree Executive Benefit Plans” means the executive benefit and nonqualified plans, programs, and arrangements established, sponsored, maintained, or agreed upon, by any Tree Entity for the benefit of employees and former employees of any Tree Entity before the Close of the Distribution Date.

“Tree Factor” means the product obtained by multiplying (a) 0.03333 and (b) the Adjustment Ratio.

“Tree Long-Term Incentive Plan” means the long-term incentive plan or program to be established by Tree, effective immediately prior to the Distribution Date.

“Tree Participants” has the meaning set forth in Section 5.5(d).

“Tree Rabbi Trust” has the meaning set forth in Section 5.5(d).

“Tree Ratio” means the quotient obtained by dividing the IAC Stock Value by the Tree Stock Value.

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“Tree Retirement Savings Plan” means the 401(k) and profit sharing plan to be established by Tree pursuant to Section 3.1 of this Agreement, as in effect as of the time relevant to the applicable provision of this Agreement.

“Tree Retirement Savings Plan Trust” means a trust relating to the Tree Retirement Savings Plan intended to qualify under Section 401(a) and be exempt under Section 501(a) of the Code.

“Tree Stock Value” means the closing per-share price of Tree Common Stock in the “when issued market” as listed on the NASDAQ as of 4:00 P.M. Eastern Standard Time in the last completed trading session immediately preceding the Effective Time.

“U.S.” means the 50 United States of America and the District of Columbia.

## ARTICLE II GENERAL PRINCIPLES

### 2.1 Employment.

(a) All TM Employees shall continue to be employees of TM or another TM Entity, as the case may be, immediately after the Effective Time.

(b) All Interval Employees shall continue to be employees of Interval or another Interval Entity, as the case may be, immediately after the Effective Time.

(c) All HSN Employees shall continue to be employees of HSN or another HSN Entity, as the case may be, immediately after the Effective Time.

(d) All Tree Employees shall continue to be employees of Tree or another Tree Entity, as the case may be, immediately after the Effective Time.

### 2.2 Assumption and Retention of Liabilities; Related Assets.

(a) As of the Distribution Date, except as expressly provided in this Agreement, the IAC Entities shall assume or retain and IAC hereby agrees to pay, perform, fulfill and discharge, in due course in full (i) all Liabilities under all IAC Benefit Plans with respect to all IAC Employees, Former IAC Employees and their dependents and beneficiaries, (ii) all Liabilities with respect to the employment or termination of employment of all IAC Employees, Former IAC Employees and their dependents and beneficiaries, and other service providers (including any individual who is, or was, an independent contractor, temporary employee, temporary service worker, consultant, freelancer, agency employee, leased employee, on-call worker, incidental worker, or nonpayroll worker of any IAC Entity or in any other employment, non-employment, or retainer arrangement, or relationship with any IAC Entity), in each case to the extent arising in connection with or as a result of employment with or the performance of services to any IAC Entity, and (iii) any other Liabilities expressly assigned to IAC under this Agreement. All assets held in trust to fund the IAC Benefit Plans and all insurance policies funding the IAC Benefit Plans shall be IAC Assets (as defined in the Separation Agreement), except to the extent specifically provided otherwise in this Agreement.

(b) From and after the Distribution Date, except as expressly provided in this Agreement, TM and the TM Entities shall assume or retain, as applicable, and TM hereby agrees to pay, perform, fulfill and discharge, in due course in full, (i) all Liabilities

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under all TM Benefit Plans, (ii) all Liabilities with respect to the employment or termination of employment of all TM Employees, Former TM Employees and their dependents and beneficiaries, and other service providers (including any individual who is, or was, an independent contractor, temporary employee,

temporary service worker, consultant, freelancer, agency employee, leased employee, on-call worker, incidental worker, or nonpayroll worker of TM or any TM Entity or in any other employment, non-employment, or retainer arrangement, or relationship with TM or a TM Entity), in each case to the extent arising in connection with or as a result of employment with or the performance of services to any TM Entity and (iii) any other Liabilities expressly assigned to TM or any TM Entity under this Agreement.

(c) From and after the Distribution Date, except as expressly provided in this Agreement, Interval and the Interval Entities shall assume or retain, as applicable, and Interval hereby agrees to pay, perform, fulfill and discharge, in due course in full, (i) all Liabilities under all Interval Benefit Plans, (ii) all Liabilities with respect to the employment or termination of employment of all Interval Employees, Former Interval Employees and their dependents and beneficiaries, and other service providers (including any individual who is, or was, an independent contractor, temporary employee, temporary service worker, consultant, freelancer, agency employee, leased employee, on-call worker, incidental worker, or nonpayroll worker of Interval or any Interval Entity or in any other employment, non-employment, or retainer arrangement, or relationship with Interval or an Interval Entity), in each case to the extent arising in connection with or as a result of employment with or the performance of services to any Interval Entity and (iii) any other Liabilities expressly assigned to Interval or any Interval Entity under this Agreement.

(d) From and after the Distribution Date, except as expressly provided in this Agreement, HSN and the HSN Entities shall assume or retain, as applicable, and HSN hereby agrees to pay, perform, fulfill and discharge, in due course in full, (i) all Liabilities under all HSN Benefit Plans, (ii) all Liabilities with respect to the employment or termination of employment of all HSN Employees, Former HSN Employees and their dependents and beneficiaries, and other service providers (including any individual who is, or was, an independent contractor, temporary employee, temporary service worker, consultant, freelancer, agency employee, leased employee, on-call worker, incidental worker, or nonpayroll worker of HSN or any HSN Entity or in any other employment, non-employment, or retainer arrangement, or relationship with HSN or an HSN Entity), in each case to the extent arising in connection with or as a result of employment with or the performance of services to any HSN Entity and (iii) any other Liabilities expressly assigned to HSN or any HSN Entity under this Agreement.

(e) From and after the Distribution Date, except as expressly provided in this Agreement, Tree and the Tree Entities shall assume or retain, as applicable, and Tree hereby agrees to pay, perform, fulfill and discharge, in due course in full, (i) all Liabilities under all Tree Benefit Plans, (ii) all Liabilities with respect to the employment or termination of employment of all Tree Employees, Former Tree Employees and their dependents and beneficiaries, and other service providers (including any individual who is, or was, an independent contractor, temporary employee, temporary service worker, consultant, freelancer, agency employee, leased employee, on-call worker, incidental worker, or nonpayroll worker of Tree or any Tree Entity or in any other employment, non-employment, or retainer arrangement, or relationship with Tree or a Tree Entity), in each case to the extent arising in connection with or as a result of employment with or the performance of services to any Tree Entity and (iii) any other Liabilities expressly assigned to Tree or any Tree Entity under this Agreement.

### 2.3 SpinCo Participation in IAC Benefit Plans.

(a) Except as expressly provided in this Agreement, effective as of the Close of the Distribution Date, TM and each other TM Entity shall cease to be a Participating Company in any IAC Benefit Plan, and IAC and TM shall take all necessary action before the Distribution Date to effectuate such cessation as a Participating Company.

(b) Except as expressly provided in this Agreement, effective as of the Close of the Distribution Date, Interval and each other Interval Entity shall cease to be a Participating Company in any IAC Benefit Plan, and IAC and Interval shall take all necessary action before the Distribution Date to effectuate such cessation as a Participating Company.

(c) Except as expressly provided in this Agreement, effective as of the Close of the Distribution Date, HSN and each other HSN Entity shall cease to be a Participating Company in any IAC Benefit Plan, and IAC and HSN shall take all necessary action before the Distribution Date to effectuate such cessation as a Participating Company.

(d) Except as expressly provided in this Agreement, effective as of the Close of the Distribution Date, Tree and each other Tree Entity shall cease to be a Participating Company in any IAC Benefit Plan, and IAC and Tree shall take all necessary action before the Distribution Date to effectuate such cessation as a Participating Company.

### 2.4 Terms of Participation by SpinCo Employees in SpinCo Benefit Plans.

(a) IAC and TM shall agree on methods and procedures, including, without limitation, amending the respective Benefit Plan documents, to prevent TM Employees from receiving duplicative benefits from the IAC Benefit Plans and the TM Benefit Plans. With respect to TM Employees, each TM Benefit Plan shall provide that all service, all compensation and all other benefit-affecting determinations that, as of December 31, 2008 were recognized under the corresponding IAC Benefit Plan shall, as of January 1, 2009 receive full recognition, credit and validity and be taken into account under such TM Benefit Plan to the same extent as if such items occurred under such TM Benefit Plan, except to the extent that duplication of benefits would result or for benefit accrual to the extent that TM adopts a final average pay defined benefit pension plan.

(b) IAC and Interval shall agree on methods and procedures, including, without limitation, amending the respective Benefit Plan documents, to prevent Interval Employees from receiving duplicative benefits from the IAC Benefit Plans and the Interval Benefit Plans. With respect to Interval Employees, each Interval Benefit Plan shall provide that all service, all compensation and all other benefit-affecting determinations that, as of December 31, 2008 were recognized under the corresponding IAC Benefit Plan shall, as of January 1, 2009 receive full recognition, credit and validity and be taken into account under such Interval Benefit Plan to the same extent as if such items occurred under such Interval Benefit Plan, except to the extent that duplication of benefits would result or for benefit accrual to the extent that Interval adopts a final average pay defined benefit pension plan.

(c) IAC and HSN shall agree on methods and procedures, including, without limitation, amending the respective Benefit Plan documents, to prevent HSN Employees from receiving duplicative benefits from the IAC Benefit Plans and the HSN Benefit Plans. With respect to HSN Employees, each HSN Benefit Plan shall provide that all service, all compensation and all other benefit-affecting determinations that, as of December 31, 2008 were recognized under the corresponding IAC Benefit Plan shall, as of January 1, 2009 receive full recognition, credit and validity and be taken into account under

such HSN Benefit Plan to the same extent as if such items occurred under such HSN Benefit Plan, except to the extent that duplication of benefits would result or for benefit accrual to the extent that HSN adopts a final average pay defined benefit pension plan.

(d) IAC and Tree shall agree on methods and procedures, including, without limitation, amending the respective Benefit Plan documents, to prevent Tree Employees from receiving duplicative benefits from the IAC Benefit Plans and the Tree Benefit Plans. With respect to Tree Employees, each Tree Benefit Plan shall provide that all service, all compensation and all other benefit-affecting determinations that, as of December 31, 2008 were recognized under the corresponding IAC Benefit Plan shall, as of January 1, 2009 receive full recognition, credit and validity and be taken into account under such Tree Benefit Plan to the same extent as if such items occurred under such Tree Benefit Plan, except to the extent that duplication of benefits would result or for benefit accrual to the extent that Tree adopts a final average pay defined benefit pension plan.

2.5 Commercially Reasonable Efforts. IAC, TM, Interval, HSN and Tree shall use commercially reasonable efforts to (a) enter into any necessary agreements to accomplish the assumptions and transfers contemplated by this Agreement; and (b) provide for the maintenance of the necessary participant records, the appointment of the trustees and the engagement of recordkeepers, investment managers, providers, insurers, etc.

2.6 Regulatory Compliance. IAC, TM, Interval, HSN and Tree shall, in connection with the actions taken pursuant to this Agreement, cooperate in making any and all appropriate filings required under the Code, ERISA and any applicable securities laws, implementing all appropriate communications with participants, transferring appropriate records and taking all such other actions as may be necessary and appropriate to implement the provisions of this Agreement in a timely manner.

2.7 Approval by IAC as Sole Stockholder. Prior to the Effective Time, IAC shall cause (a) TM to adopt the TM 2008 Long-Term Incentive Plan, (b) Interval to adopt the Interval 2008 Long-Term Incentive Plan, (c) HSN to adopt the HSN 2008 Long-Term Incentive Plan and (d) Tree to adopt the Tree 2008 Long-Term Incentive Plan.

### ARTICLE III SAVINGS PLANS

3.1 Savings Plan Transition Period. From the Distribution Date and continuing until December 31, 2008, each of TM, Interval, HSN and Tree shall adopt and maintain the IAC Retirement Savings Plan for the benefit of TM Employees and Former TM Employees, Interval Employees and Former Interval Employees, HSN Employees and Former HSN Employees and Tree Employees and Former Tree Employees, respectively, and IAC shall consent to such adoption and maintenance, in accordance with the terms of the IAC Retirement Savings Plan. Each of the Parties agrees that, following the Distribution Date and prior to December 31, 2008, the trustee of the IAC Retirement Savings Plan shall sell all shares of IAC Common Stock, TM Common Stock, Interval Common Stock, HSN Common Stock and Tree Common Stock held in the accounts of IAC Employees and Former IAC Employees, TM Employees and Former TM Employees, Interval Employees and Former Interval Employees, HSN Employees and Former HSN Employees and Tree Employees and Former Tree Employees (provided that IAC may in its sole discretion instruct the trustee of the IAC Retirement Savings Plan not to sell the shares of IAC Common Stock held by IAC Employees and Former IAC Employees). On and after the Distribution Date and until the completion of the sales contemplated by the immediately preceding sentence, shares of IAC Common Stock shall be held in an IAC Common Stock Fund, shares of TM Common Stock

shall be held in a TM Common Stock Fund, shares of Interval Common Stock shall be held in an Interval Common Stock Fund, shares of HSN Common Stock shall be held in an HSN Common Stock Fund and shares of Tree Common Stock shall be held in a Tree Common Stock Fund, in each case, under the IAC Retirement Savings Plan. Following the Distribution Date, IAC Employees and Former IAC Employees, TM Employees and Former TM Employees, Interval Employees and Former Interval Employees and Tree Employees and Former Tree Employees shall not be permitted to acquire shares of IAC Common Stock, TM Common Stock, Interval Common Stock, HSN Common Stock or Tree Common Stock in the IAC Common Stock Fund, the TM Common Stock Fund, the Interval Common Stock Fund, the HSN Common Stock Fund or the Tree Common Stock Fund, as applicable, under the IAC Retirement Savings Plan (provided that IAC may in its sole discretion instruct the trustee of the IAC Retirement Savings Plan to permit IAC Employees and Former IAC Employees to acquire additional shares of IAC Common Stock in the IAC Common Stock Fund).

#### 3.2 SpinCo Savings Plans

(a) Effective as of January 1, 2009, TM shall establish the TM Retirement Savings Plan and the TM Retirement Savings Plan Trust. As soon as practical following the establishment of the TM Retirement Savings Plan and the TM Retirement Savings Plan Trust, IAC shall cause the accounts of the TM Employees and Former TM Employees in the IAC Retirement Savings Plan to be transferred to the TM Retirement Savings Plan and the TM Retirement Savings Plan Trust in cash or such other assets as mutually agreed by IAC and TM, and TM shall cause the TM Retirement Savings Plan to assume and be solely responsible for all Liabilities under the TM Retirement Savings Plan to or relating to TM Employees and Former TM Employees whose accounts are transferred from the IAC Retirement Savings Plan. IAC and TM agree to cooperate in making all appropriate filings and taking all reasonable actions required to implement the provisions of this Section 3.2; provided that TM acknowledges that it will be responsible for complying with any requirements and applying for any determination letters with respect to the TM Retirement Savings Plan.

(b) Effective as of January 1, 2009, Interval shall establish the Interval Retirement Savings Plan and the Interval Retirement Savings Plan Trust. As soon as practical following the establishment of the Interval Retirement Savings Plan and the Interval Retirement Savings Plan Trust, IAC shall cause the accounts of the Interval Employees and Former Interval Employees in the IAC Retirement Savings Plan to be transferred to the Interval Retirement Savings Plan and the Interval Retirement Savings Plan Trust in cash or such other assets as mutually agreed by IAC and Interval, and Interval shall cause the Interval Retirement Savings Plan to assume and be solely responsible for all Liabilities under the Interval Retirement Savings Plan to or relating to Interval Employees and Former Interval Employees whose accounts are transferred from the IAC Retirement Savings Plan. IAC and Interval agree to cooperate in making all appropriate filings and taking all reasonable actions required to implement the provisions of this Section 3.2; provided that Interval acknowledges that it will be responsible for complying with any requirements and applying for any determination letters with respect to the Interval Retirement Savings Plan.

(c) Effective as of January 1, 2009, HSN shall establish the HSN Retirement Savings Plan and the HSN Retirement Savings Plan Trust. As soon as practical following the establishment of the HSN Retirement Savings Plan and the HSN Retirement Savings Plan Trust, IAC shall cause the accounts of the HSN Employees and Former HSN Employees in the IAC Retirement Savings Plan to be transferred to the HSN Retirement Savings Plan and the HSN Retirement Savings Plan Trust in cash or such other assets as mutually agreed by IAC and HSN, and HSN shall cause the HSN Retirement Savings Plan to

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assume and be solely responsible for all Liabilities under the HSN Retirement Savings Plan to or relating to HSN Employees and Former HSN Employees whose accounts are transferred from the IAC Retirement Savings Plan. IAC and HSN agree to cooperate in making all appropriate filings and taking all reasonable actions required to implement the provisions of this Section 3.2; provided that HSN acknowledges that it will be responsible for complying with any requirements and applying for any determination letters with respect to the HSN Retirement Savings Plan.

(d) Effective as of January 1, 2009, Tree shall establish the Tree Retirement Savings Plan and the Tree Retirement Savings Plan Trust. As soon as practical following the establishment of the Tree Retirement Savings Plan and the Tree Retirement Savings Plan Trust, IAC shall cause the accounts of the Tree Employees and Former Tree Employees in the IAC Retirement Savings Plan to be transferred to the Tree Retirement Savings Plan and the Tree Retirement Savings Plan Trust in cash or such other assets as mutually agreed by IAC and Tree, and Tree shall cause the Tree Retirement Savings Plan to assume and be solely responsible for all Liabilities under the Tree Retirement Savings Plan to or relating to Tree Employees and Former Tree Employees whose accounts are transferred from the IAC Retirement Savings Plan. IAC and Tree agree to cooperate in making all appropriate filings and taking all reasonable actions required to implement the provisions of this Section 3.2; provided that Tree acknowledges that it will be responsible for complying with any requirements and applying for any determination letters with respect to the Tree Retirement Savings Plan.

#### ARTICLE IV HEALTH AND WELFARE PLANS

##### 4.1 Transition Period.

(a) IAC will cause the IAC Health and Welfare Plans in effect on the Distribution Date to provide coverage to TM Employees and Former TM Employees, Interval Employees and Former Interval Employees, HSN Employees and Former HSN Employees and Tree Employees and Former Tree Employees (and, in each case, their beneficiaries and dependents) from and after the Distribution Date until December 31, 2008 (such period, the "H&W Transition Period") on the same basis as immediately prior to the date of the Distribution Date and in accordance with the terms of IAC's Health and Welfare Plans. Following the Distribution Date, each SpinCo shall pay to IAC fees in respect of IAC covering such SpinCo's SpinCo Employees and SpinCo Former Employees under the IAC Health and Welfare Plans, such fees to be based on the per-employee budgeted rates set forth on *Exhibit A* to this Agreement. The fees contemplated by this Section 4.1 shall be payable in advance each month (*i.e.*, not later than the first day of any month during which coverage applies) during the H&W Transition Period and shall be based on the prior month's enrollment, with appropriate, subsequent adjustments in each succeeding month to reflect actual enrollment; provided, however, that the fees relating to the period from and including the first day of the month during which the Distribution Date occurs through the end of the month during which the Distribution Date occurs shall be payable no later than the fifth business day following the Distribution Date. In the event that any SpinCo fails to pay in a timely manner the fees contemplated by this Section 4.1(a), IAC shall have no obligation to provide the coverage contemplated by this Section 4.1(a) to such SpinCo's SpinCo Employees and SpinCo Former Employees.

(b) Following the H&W Transition Period, but not later than May 15, 2009, IAC shall calculate in good faith the total costs and expenses of the IAC Health and Welfare Plans for 2008 (including without limitation claims paid and administration fees and IAC's

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good faith estimate of claims incurred in 2008 but not reported by March 31, 2009 (such estimate to be prepared based on historical claims reporting patterns and history)) (the "2008 H&W Expenses"), and IAC promptly shall provide to each of the SpinCos the 2008 H&W Expenses following such calculation. To the extent 2008 H&W Expenses (i) exceed the aggregate fees paid by IAC and the SpinCos in respect of coverage during 2008 of IAC Employees and Former Employees and SpinCo Employees and Former SpinCo Employees (the "2008 H&W Fees"), each of the SpinCos shall be required to pay to IAC by wire transfer such SpinCo's ratable portion (calculated on the basis of the number of such SpinCo's SpinCo Employees relative to the total number of IAC Employees and SpinCo Employees taken together) of the fees deficit, and (ii) is less than the 2008 H&W Fees, IAC shall pay to each of the SpinCos such SpinCo's ratable portion (calculated on the basis of the number of such SpinCo's SpinCo Employees relative to the total number of IAC Employees and SpinCo Employees taken together) of the excess fees collected, any such payments pursuant to clause (i) or clause (ii) to be made no later than July 15, 2009. Any calculations made by IAC pursuant to this Section 4.1(b) shall be final and binding upon the SpinCos. For purposes of this Section 4.1(b), any calculation based on a number of employees shall be based on [ ].

##### 4.2 Establishment of Health and Welfare Plans.

(a) Effective as of January 1, 2009, TM shall adopt Health and Welfare Plans for the benefit of TM Employees and Former TM Employees, and TM shall be responsible for all Liabilities relating to, arising out of or resulting from health and welfare coverage or claims incurred by or on behalf of TM Employees and Former TM Employees or their covered dependents under the TM Health and Welfare Plans prior to, on or after January 1, 2009.

(b) Effective as of January 1, 2009, Interval shall adopt Health and Welfare Plans for the benefit of Interval Employees and Former Interval Employees, and Interval shall be responsible for all Liabilities relating to, arising out of or resulting from health and welfare coverage or claims incurred by or on behalf of Interval Employees and Former Interval Employees or their covered dependents under the Interval Health and Welfare Plans prior to, on or after January 1, 2009.

(c) Effective as of January 1, 2009, HSN shall adopt Health and Welfare Plans for the benefit of HSN Employees and Former HSN Employees, and HSN shall be responsible for all Liabilities relating to, arising out of or resulting from health and welfare coverage or claims incurred by or on behalf of HSN Employees and Former HSN Employees or their covered dependents under the HSN Health and Welfare Plans prior to, on or after January 1, 2009.

(d) Effective as of January 1, 2009, Tree shall adopt Health and Welfare Plans for the benefit of Tree Employees and Former Tree Employees, and Tree shall be responsible for all Liabilities relating to, arising out of or resulting from health and welfare coverage or claims incurred by or on behalf of Tree Employees and Former Tree Employees or their covered dependents under the Tree Health and Welfare Plans prior to, on or after January 1, 2009.

(e) Notwithstanding anything to the contrary in this Section 4.2, with respect to any TM Employee, Interval Employee, HSN Employee or Tree Employee who becomes disabled under the terms of the IAC Health and Welfare Plans and becomes entitled to receive

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long-term or short-term disability benefits prior to January 1, 2009, such TM Employee, Interval Employee, HSN Employee or Tree Employee shall continue to receive long-term or short-term disability benefits under the IAC Health and Welfare Plans on and after January 1, 2009 in accordance with the terms of the IAC Health and Welfare Plans.

4.3 Retention of Sponsorship and Liabilities. Following the Distribution Date, IAC shall retain:

(a) sponsorship of all IAC Health and Welfare Plans and any trust or other funding arrangement established or maintained with respect to such plans, including any “voluntary employee’s beneficiary association,” or any assets held as of the Distribution Date with respect to such plans; and

(b) all Liabilities relating to, arising out of, or resulting from health and welfare coverage or claims incurred by or on behalf of IAC Employees or Former IAC Employees or their covered dependents under the IAC Health and Welfare Plans prior to, on or after the Distribution Date.

Other than as contemplated by Section 4.1 with respect to the H&W Transition Period, IAC shall not assume any Liability relating to health and welfare claims incurred by or on behalf of SpinCo Employees or Former SpinCo Employees or their respective covered dependents prior to, on or after the Distribution Date, and such claims shall be satisfied pursuant to Section 4.2. For purposes of Sections 4.2 and 4.3 of this Agreement, a claim or Liability (1) for medical, dental, vision and/or prescription drug benefits shall be deemed to be incurred upon the rendering of health services giving rise to the obligation to pay such benefits; (2) for life insurance and accidental death and dismemberment and business travel accident insurance benefits and workers’ compensation benefits shall be deemed to be incurred upon the occurrence of the event giving rise to the entitlement to such benefits; (3) for salary continuation or other disability benefits shall be deemed to be incurred upon the effective date of an individual’s disability giving rise to the entitlement to such benefits under the applicable disability policy; and (4) for a period of continuous hospitalization shall be deemed to be incurred on the date of admission to the hospital.

4.4 Vendor Contracts.

(a) IAC and TM shall use commercially reasonable efforts to obligate the third party administrator of each administrative-services-only contract with a third-party administrator that relates to any of the IAC Health and Welfare Plans (an “ASO Contract”), each group insurance policy that relates to any of the IAC Health and Welfare Plans (“Group Insurance Policies”) and each agreement with a Health Maintenance Organization that provides medical services under the IAC Health and Welfare Plans (“HMO Agreements”), in each case, in existence as of the date of this Agreement that is applicable to TM Employees, to enter into a separate ASO Contract, Group Insurance Policy and HMO Agreement, as applicable, with TM providing for substantially similar terms and conditions as are contained in the ASO Contracts, Group Insurance Policies and HMO Agreements, as applicable, to which IAC is a party. Such terms and conditions shall include the financial and termination provisions, performance standards, methodology, auditing policies, quality measures and reporting requirements.

(b) IAC and Interval shall use commercially reasonable efforts to obligate the third party administrator of each administrative-services-only contract with an ASO Contract, each Group Insurance Policy and each HMO Agreement, in each case, in existence as of the date of this Agreement that is applicable to Interval Employees, to enter into a separate ASO Contract, Group Insurance Policy and HMO Agreement, as applicable, with Interval providing for substantially similar terms and conditions as are contained in the ASO

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Contracts, Group Insurance Policies and HMO Agreements, as applicable, to which IAC is a party. Such terms and conditions shall include the financial and termination provisions, performance standards, methodology, auditing policies, quality measures and reporting requirements.

(c) IAC and HSN shall use commercially reasonable efforts to obligate the third party administrator of each administrative-services-only contract with an ASO Contract, each Group Insurance Policy and each HMO Agreement, in each case, in existence as of the date of this Agreement that is applicable to HSN Employees, to enter into a separate ASO Contract, Group Insurance Policy and HMO Agreement, as applicable, with HSN providing for substantially similar terms and conditions as are contained in the ASO Contracts, Group Insurance Policies and HMO Agreements, as applicable, to which IAC is a party. Such terms and conditions shall include the financial and termination provisions, performance standards, methodology, auditing policies, quality measures and reporting requirements.

(d) IAC and Tree shall use commercially reasonable efforts to obligate the third party administrator of each administrative-services-only contract with an ASO Contract, each Group Insurance Policy and each HMO Agreement, in each case, in existence as of the date of this Agreement that is applicable to Tree Employees, to enter into a separate ASO Contract, Group Insurance Policy and HMO Agreement, as applicable, with Tree providing for substantially similar terms and conditions as are contained in the ASO Contracts, Group Insurance Policies and HMO Agreements, as applicable, to which IAC is a party. Such terms and conditions shall include the financial and termination provisions, performance standards, methodology, auditing policies, quality measures and reporting requirements.

4.5 Flexible Benefit Plan. IAC will continue to maintain on behalf of TM Employees, Interval Employees, HSN Employees and Tree Employees the health care reimbursement program, the transit and parking reimbursement program and the dependent care reimbursement program of the IAC Flexible Benefit Plan (all of such accounts, “IAC Flexible Benefit Plan”) for claims incurred with respect to 2008 elections under the IAC Flexible

Benefit Plan (all such claims must be submitted no later than April 15, 2009) on the same basis as immediately prior to the Distribution Date and in accordance with the terms of the IAC Flexible Benefit Plan. Following the Distribution Date, each SpinCo shall pay to IAC the amounts claimed by such SpinCo's SpinCo Employees under the IAC Flexible Benefit Plan in addition to such SpinCo's share of the administrative cost of the IAC Flexible Benefit Plan (based on IAC historical allocations), such amounts to be paid by each SpinCo on a one-month lagging basis (*i.e.*, claims made and administrative costs incurred during a particular month shall be billed in the immediately succeeding month); provided, that each SpinCo shall remit payment to IAC no later than the fifth business day following delivery by IAC of an invoice to such SpinCo. SpinCo Employees shall not participate in the IAC Flexible Benefit Plan with respect to any plan year after the 2008 plan year.

#### 4.6 Workers' Compensation Liabilities.

(a) Except as provided below, all workers' compensation Liabilities relating to, arising out of, or resulting from any claim by an IAC Employee, Former IAC Employee, SpinCo Employee or Former SpinCo Employee that results from an accident occurring, or from an occupational disease which becomes manifest, before the Distribution Date shall be retained by IAC.

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(b) All workers' compensation Liabilities relating to, arising out of, or resulting from any claim by an IAC Employee or Former IAC Employee that results from an accident occurring, or from an occupational disease which becomes manifest, on or after the Distribution Date shall be retained by IAC.

(c) All workers' compensation Liabilities relating to, arising out of, or resulting from any claim by a TM Employee or Former TM Employee that results from an accident occurring, or from an occupational disease which becomes manifest, on or after the Distribution Date shall be retained by TM.

(d) All workers' compensation Liabilities relating to, arising out of, or resulting from any claim by an Interval Employee or Former Interval Employee that results from an accident occurring, or from an occupational disease which becomes manifest, on or after the Distribution Date shall be retained by Interval.

(e) All workers' compensation Liabilities relating to, arising out of, or resulting from any claim by an HSN Employee or Former HSN Employee that results from an accident occurring, or from an occupational disease which becomes manifest, on or after the Distribution Date shall be retained by HSN.

(f) All workers' compensation Liabilities relating to, arising out of, or resulting from any claim by a Tree Employee or Former Tree Employee that results from an accident occurring, or from an occupational disease which becomes manifest, on or after the Distribution Date shall be retained by Tree.

For purposes of this Agreement, a compensable injury shall be deemed to be sustained upon the occurrence of the event giving rise to eligibility for workers' compensation benefits or at the time that an occupational disease becomes manifest, as the case may be. The Parties shall cooperate with respect to any notification to appropriate governmental agencies of the Effective Time and the issuance of new, or the transfer of existing, workers' compensation insurance policies and claims handling contracts.

4.7 Payroll Taxes and Reporting of Compensation. Each of IAC, TM, Interval, HSN and Tree shall, and shall cause each of its respective Subsidiaries to, take such action as may be reasonably necessary or appropriate in order to minimize Liabilities related to payroll taxes after the Distribution Date. Each of IAC, TM, Interval, HSN and Tree shall, and shall cause each of its respective Subsidiaries to, respectively, bear its responsibility for payroll tax obligations and for the proper reporting to the appropriate governmental authorities of compensation earned by their respective employees after the Close of the Distribution Date, including compensation related to the exercise of Options and the vesting and/or settlement of Restricted Stock Units.

#### 4.8 COBRA and HIPAA Compliance.

(a) IAC shall be responsible for administering compliance with the health care continuation requirements of COBRA, the certificate of creditable coverage requirements of HIPAA, and the corresponding provisions of the IAC Health and Welfare Plans with respect to IAC Employees and Former IAC Employees and their covered dependents who incur a COBRA qualifying event or loss of coverage under the IAC Health and Welfare Plans at any time before, on or after the Effective Time.

(b) Until December 31, 2008, IAC shall be responsible for administering compliance with the health care continuation requirements of COBRA, the certificate of

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creditable coverage requirements of HIPAA, and the corresponding provisions of the IAC Health and Welfare Plans with respect to SpinCo Employees and Former SpinCo Employees and their covered dependents who incur a COBRA qualifying event or loss of coverage under the IAC Health and Welfare Plans at any time through December 31, 2008.

(c) On and after January 1, 2009, TM or another TM Entity shall be responsible for administering compliance with the health care continuation requirements of COBRA, the certificate of creditable coverage requirements of HIPAA, and the corresponding provisions of the TM Health and Welfare Plans and/or the IAC Health and Welfare Plans with respect to TM Employees and Former TM Employees and their covered dependents who incur a COBRA qualifying event or loss of coverage under the TM Health and Welfare Plans and/or the IAC Health and Welfare Plans at any time before, on or after the Effective Time.

(d) On and after January 1, 2009, Interval or another Interval Entity shall be responsible for administering compliance with the health care continuation requirements of COBRA, the certificate of creditable coverage requirements of HIPAA, and the corresponding provisions of the Interval Health and Welfare Plans and/or the IAC Health and Welfare Plans with respect to Interval Employees and Former Interval Employees and their covered

dependents who incur a COBRA qualifying event or loss of coverage under the Interval Health and Welfare Plans and/or the IAC Health and Welfare Plans at any time before, on or after the Effective Time.

(e) On and after January 1, 2009, HSN or another HSN Entity shall be responsible for administering compliance with the health care continuation requirements of COBRA, the certificate of creditable coverage requirements of HIPAA, and the corresponding provisions of the HSN Health and Welfare Plans and/or the IAC Health and Welfare Plans with respect to HSN Employees and Former HSN Employees and their covered dependents who incur a COBRA qualifying event or loss of coverage under the HSN Health and Welfare Plans and/or the IAC Health and Welfare Plans at any time before, on or after the Effective Time.

(f) On and after January 1, 2009, Tree or another Tree Entity shall be responsible for administering compliance with the health care continuation requirements of COBRA, the certificate of creditable coverage requirements of HIPAA, and the corresponding provisions of the Tree Health and Welfare Plans and/or the IAC Health and Welfare Plans with respect to Tree Employees and Former Tree Employees and their covered dependents who incur a COBRA qualifying event or loss of coverage under the Tree Health and Welfare Plans and/or the IAC Health and Welfare Plans at any time before, on or after the Effective Time.

The Parties hereto agree that the consummation of the transactions contemplated by this Agreement and the Separation Agreement shall not constitute a COBRA qualifying event for any purpose of COBRA.

## ARTICLE V EXECUTIVE BENEFITS AND OTHER BENEFITS

### 5.1 Assumption of Obligations.

(a) Except as provided in this Agreement, effective as of the Effective Time, TM shall assume and be solely responsible for all Liabilities to or relating to TM Employees and Former TM Employees under all IAC Executive Benefit Plans and TM Executive Benefit Plans.

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(b) Except as provided in this Agreement, effective as of the Effective Time, Interval shall assume and be solely responsible for all Liabilities to or relating to Interval Employees and Former Interval Employees under all IAC Executive Benefit Plans and Interval Executive Benefit Plans.

(c) Except as provided in this Agreement, effective as of the Effective Time, HSN shall assume and be solely responsible for all Liabilities to or relating to HSN Employees and Former HSN Employees under all IAC Executive Benefit Plans and HSN Executive Benefit Plans.

(d) Except as provided in this Agreement, effective as of the Effective Time, Tree shall assume and be solely responsible for all Liabilities to or relating to Tree Employees and Former Tree Employees under all IAC Executive Benefit Plans and Tree Executive Benefit Plans.

The Parties hereto agree that none of the transactions contemplated by the Separation Agreement or any of the Ancillary Agreements, including, without limitation, this Agreement, constitutes a "change in control," "change of control" or similar term, as applicable, within the meaning of any Benefit Plan or any IAC Long-Term Incentive Plan.

### 5.2 IAC Incentive Plans.

#### (a) SpinCo Bonus Awards.

(i) TM shall be responsible for determining all bonus awards that would otherwise be payable under the IAC Incentive Plans to TM Employees for the Effective Time Year. TM shall also determine for TM Employees (A) the extent to which established performance criteria (as interpreted by TM, in its sole discretion) have been met, and (B) the payment level for each TM Employee. TM shall assume all Liabilities with respect to any such bonus awards payable to TM Employees for the Effective Time Year and thereafter.

(ii) Interval shall be responsible for determining all bonus awards that would otherwise be payable under the IAC Incentive Plans to Interval Employees for the Effective Time Year. Interval shall also determine for Interval Employees (A) the extent to which established performance criteria (as interpreted by Interval, in its sole discretion) have been met, and (B) the payment level for each Interval Employee. Interval shall assume all Liabilities with respect to any such bonus awards payable to Interval Employees for the Effective Time Year and thereafter.

(iii) HSN shall be responsible for determining all bonus awards that would otherwise be payable under the IAC Incentive Plans to HSN Employees for the Effective Time Year. HSN shall also determine for HSN Employees (A) the extent to which established performance criteria (as interpreted by HSN, in its sole discretion) have been met, and (B) the payment level for each HSN Employee. HSN shall assume all Liabilities with respect to any such bonus awards payable to HSN Employees for the Effective Time Year and thereafter.

(iv) Tree shall be responsible for determining all bonus awards that would otherwise be payable under the IAC Incentive Plans to Tree Employees for the Effective Time Year. Tree shall also determine for Tree Employees (A) the extent to which established performance criteria (as interpreted by Tree, in its sole discretion) have been met, and (B) the payment level for each Tree Employee. Tree shall

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assume all Liabilities with respect to any such bonus awards payable to Tree Employees for the Effective Time Year and thereafter.

(b) IAC Bonus Awards. IAC shall retain all Liabilities with respect to any bonus awards payable under the IAC Incentive Plans to IAC Employees for the Effective Time Year and thereafter.

5.3 IAC Long-Term Incentive Plans. IAC and each of the SpinCos shall use commercially reasonable efforts to take all actions necessary or appropriate so that each outstanding Option and Award granted under any IAC Long-Term Incentive Plan held by any individual shall be adjusted as set forth

in this Article V. Following the Separation, with respect to any award adjusted under this Section 5.3, any reference to a “change in control,” “change of control” or similar definition in an award agreement, employment agreement or IAC Long-Term Incentive Plan applicable to such award (1) with respect to post-Separation equity awards denominated in shares of IAC Common Stock, shall be deemed to refer to a “change in control,” “change of control” or similar definition as set forth in the applicable award agreement, employment agreement or IAC Long-Term Incentive Plan, (2) with respect to post-Separation equity awards denominated in shares of TM Common Stock, shall be deemed to refer to a “Change in Control” as defined in the TM Long-Term Incentive Plan, (3) with respect to post-Separation equity awards denominated in shares of Interval Common Stock, shall be deemed to refer to a “Change in Control” as defined in the Interval Long-Term Incentive Plan, (4) with respect to post-Separation equity awards denominated in shares of HSN Common Stock, shall be deemed to refer to a “Change in Control” as defined in the HSN Long-Term Incentive Plan, and (5) with respect to post-Separation equity awards denominated in shares of Tree Common Stock, shall be deemed to refer to a “Change in Control” as defined in the Tree Long-Term Incentive Plan.

(a) IAC Options Granted Prior to January 1, 2008. As determined by the Compensation and Human Resources Committee of the IAC Board of Directors (the “Committee”) pursuant to its authority under the applicable IAC Long-Term Incentive Plan, each IAC Option granted prior to January 1, 2008, whether vested or unvested, that is outstanding as of the Effective Time shall be converted at the Effective Time into an IAC Option, a TM Option, an Interval Option, an HSN Option and a Tree Option and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Option immediately prior to the Effective Time, subject to the following adjustments which shall apply from and after the Effective Time:

(i) (A) the number of shares of IAC Common Stock subject to such IAC Option, rounded down to the nearest whole share, shall be equal to the product obtained by multiplying (1) the number of shares of IAC Common Stock subject to such IAC Option immediately prior to the Effective Time by (2) the IAC Factor, and (B) the per share exercise price of such IAC Option, rounded up to the nearest whole cent, shall be equal to the quotient obtained by dividing (1) the per share exercise price of such IAC Option immediately prior to the Effective Time by (2) the IAC Ratio;

(ii) (A) the number of shares of TM Common Stock subject to such TM Option, rounded down to the nearest whole share, shall be equal to the product obtained by multiplying (1) the number of shares of IAC Common Stock subject to such IAC Option immediately prior to the Effective Time by (2) the TM Factor, and (B) the per share exercise

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price of such TM Option, rounded up to the nearest whole cent, shall be equal to the quotient obtained by dividing (1) the per share exercise price of such IAC Option immediately prior to the Effective Time by (2) the TM Ratio (this clause (ii) shall not apply if IAC does not distribute shares of TM Common Stock on the Distribution Date);

(iii) (A) the number of shares of Interval Common Stock subject to such Interval Option, rounded down to the nearest whole share, shall be equal to the product obtained by multiplying (1) the number of shares of IAC Common Stock subject to such IAC Option immediately prior to the Effective Time by (2) the Interval Factor, and (B) the per share exercise price of such Interval Option, rounded up to the nearest whole cent, shall be equal to the quotient obtained by dividing (1) the per share exercise price of such IAC Option immediately prior to the Effective Time by (2) the Interval Ratio (this clause (iii) shall not apply if IAC does not distribute shares of Interval Common Stock on the Distribution Date);

(iv) (A) the number of shares of HSN Common Stock subject to such HSN Option, rounded down to the nearest whole share, shall be equal to the product obtained by multiplying (1) the number of shares of IAC Common Stock subject to such IAC Option immediately prior to the Effective Time by (2) the HSN Factor, and (B) the per share exercise price of such HSN Option, rounded up to the nearest whole cent, shall be equal to the quotient obtained by dividing (1) the per share exercise price of such IAC Option immediately prior to the Effective Time by (2) the HSN Ratio (this clause (iv) shall not apply if IAC does not distribute shares of HSN Common Stock on the Distribution Date); and

(v) (A) the number of shares of Tree Common Stock subject to such Tree Option, rounded down to the nearest whole share, shall be equal to the product obtained by multiplying (1) the number of shares of IAC Common Stock subject to such IAC Option immediately prior to the Effective Time by (2) the Tree Factor, and (B) the per share exercise price of such Tree Option, rounded up to the nearest whole cent, shall be equal to the quotient obtained by dividing (1) the per share exercise price of such IAC Option immediately prior to the Effective Time by (2) the Tree Ratio (this clause (v) shall not apply if IAC does not distribute shares of Tree Common Stock on the Distribution Date);

provided, however, the exercise price, the number of shares of IAC Common Stock, TM Common Stock, Interval Common Stock, HSN Common Stock and Tree Common Stock subject to such options and the terms and conditions of exercise of such options shall be determined in a manner consistent with the requirements of Section 409A of the Code; provided, further, that, in the case of any IAC Option to which Section 421 of the Code applies by reason of its qualification under Section 422 of the Code as of immediately prior to the Effective Time, the exercise price, the number of shares of IAC Common Stock, TM Common Stock, Interval Common Stock, HSN Common Stock and Tree Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the requirements of Section 424(a) of the Code.

(b) IAC Options Held by IAC Employees and Former IAC Employees Granted on or after January 1, 2008. As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, each IAC Option held by an IAC Employee or a Former IAC Employee granted on or after January 1, 2008, whether vested or unvested, that is outstanding as of the Effective Time shall be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Option immediately prior to the Effective Time, subject to the following adjustments which shall apply from and after the Effective Time:

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(i) the number of shares of IAC Common Stock subject to such IAC Option, rounded down to the nearest whole share, shall be equal to the product of (A) the number of shares of IAC Common Stock subject to such IAC Option immediately prior to the Effective Time and (B) the IAC Ratio and (ii) the per share exercise price of such IAC Option, rounded up to the nearest whole cent, shall be equal to the quotient obtained by dividing (A) the per share exercise price of such IAC Option immediately prior to the Effective Time by (B) the IAC Ratio; provided, however, the exercise price, the number of shares of IAC Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the requirements of Section 409A of the Code; provided, further, that, in the case of any IAC Option to which Section 421 of the Code applies by reason of its qualification under

Section 422 of the Code as of immediately prior to the Effective Time, the exercise price, the number of shares of IAC Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the requirements of Section 424(a) of the Code.

(c) IAC Options Held by TM Employees and Former TM Employees Granted on or after January 1, 2008. As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, each IAC Option held by a TM Employee or Former TM Employee granted on or after January 1, 2008, whether vested or unvested, that is outstanding as of the Effective Time shall be converted at the Effective Time into a TM Option and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Option immediately prior to the Effective Time, subject to the following adjustments which shall apply from and after the Effective Time: (i) the number of shares of TM Common Stock subject to such Option, rounded down to the nearest whole share, shall be equal to the product of (A) the number of shares of IAC Common Stock subject to such IAC Option immediately prior to the Effective Time and (B) the TM Ratio and (ii) the per share exercise price of such TM Option, rounded up to the nearest whole cent, shall be equal to the quotient obtained by dividing (A) the per share exercise price of such IAC Option immediately prior to the Effective Time by (B) the TM Ratio; provided, however, the exercise price, the number of shares of TM Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the requirements of Section 409A of the Code; provided, further, that, in the case of any IAC Option to which Section 421 of the Code applies by reason of its qualification under Section 422 of the Code as of the Effective Time, the exercise price, the number of shares of TM Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the requirements of Section 424(a) of the Code. This clause (c) shall not apply if IAC does not distribute shares of TM Common Stock on the Distribution Date.

(d) IAC Options Held by Interval Employees and Former Interval Employees Granted on or after January 1, 2008. As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, each IAC Option held by an Interval Employee or Former Interval Employee granted on or after January 1, 2008, whether vested or unvested, that is outstanding as of the Effective Time shall be converted at the Effective Time into an Interval Option and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Option immediately prior to the Effective Time, subject to the following adjustments which shall apply from and after the Effective Time: (i) the number of shares of Interval Common Stock subject to such Option, rounded down to the nearest whole share, shall be equal to the product of (A) the number of shares of IAC Common Stock subject to such IAC Option immediately prior to the Effective Time and (B) the Interval Ratio and (ii) the per share exercise price of such Interval Option, rounded up

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to the nearest whole cent, shall be equal to the quotient obtained by dividing (A) the per share exercise price of such IAC Option immediately prior to the Effective Time by (B) the Interval Ratio; provided, however, the exercise price, the number of shares of Interval Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the requirements of Section 409A of the Code; provided, further, that, in the case of any IAC Option to which Section 421 of the Code applies by reason of its qualification under Section 422 of the Code as of the Effective Time, the exercise price, the number of shares of Interval Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the requirements of Section 424(a) of the Code. This clause (d) shall not apply if IAC does not distribute shares of Interval Common Stock on the Distribution Date.

(e) IAC Options Held by HSN Employees and Former HSN Employees Granted on or after January 1, 2008. As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, each IAC Option held by a HSN Employee or Former HSN Employee granted on or after January 1, 2008, whether vested or unvested, that is outstanding as of the Effective Time shall be converted at the Effective Time into a HSN Option and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Option immediately prior to the Effective Time, subject to the following adjustments which shall apply from and after the Effective Time: (i) the number of shares of HSN Common Stock subject to such Option, rounded down to the nearest whole share, shall be equal to the product of (A) the number of shares of IAC Common Stock subject to such IAC Option immediately prior to the Effective Time and (B) the HSN Ratio and (ii) the per share exercise price of such HSN Option, rounded up to the nearest whole cent, shall be equal to the quotient obtained by dividing (A) the per share exercise price of such IAC Option immediately prior to the Effective Time by (B) the HSN Ratio; provided, however, the exercise price, the number of shares of HSN Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the requirements of Section 409A of the Code; provided, further, that, in the case of any IAC Option to which Section 421 of the Code applies by reason of its qualification under Section 422 of the Code as of the Effective Time, the exercise price, the number of shares of HSN Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the requirements of Section 424(a) of the Code. This clause (e) shall not apply if IAC does not distribute shares of HSN Common Stock on the Distribution Date.

(f) IAC Options Held by Tree Employees and Former Tree Employees Granted on or after January 1, 2008. As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, each IAC Option held by a Tree Employee or Former Tree Employee granted on or after January 1, 2008, whether vested or unvested, that is outstanding as of the Effective Time shall be converted at the Effective Time into a Tree Option and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Option immediately prior to the Effective Time, subject to the following adjustments which shall apply from and after the Effective Time: (i) the number of shares of Tree Common Stock subject to such Option, rounded down to the nearest whole share, shall be equal to the product of (A) the number of shares of IAC Common Stock subject to such IAC Option immediately prior to the Effective Time and (B) the Tree Ratio and (ii) the per share exercise price of such Tree Option, rounded up to the nearest whole cent, shall be equal to the quotient obtained by dividing (A) the per share exercise price of such IAC Option immediately prior to the Effective Time by (B) the Tree

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Ratio; provided, however, the exercise price, the number of shares of Tree Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the requirements of Section 409A of the Code; provided, further, that, in the case of any IAC Option to which Section 421 of the Code applies by reason of its qualification under Section 422 of the Code as of the Effective Time, the exercise price, the number of shares of Tree Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the requirements of Section 424(a) of the Code. This clause (f) shall not apply if IAC does not distribute shares of Tree Common Stock on the Distribution Date.

(g) IAC Restricted Stock Units.

(i) Conversion of Growth Share Awards. IAC has awarded IAC Restricted Stock Units that may vest from 0% to 200% of the IAC Restricted Stock Units granted depending upon performance of IAC (the “Growth Share Awards”). As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, prior to the Effective Time and prior to any other action contemplated by this Section 5.3(g), the Growth Share Awards shall be amended such that the number of IAC Restricted Stock Units subject to each Growth Share Award shall be fixed at 100% (target) of the IAC Restricted Stock Units subject to the initial Growth Share Awards (there will be no upward or downward variability and the balance of the IAC Restricted Stock Units subject to the initial Growth Share Award shall be forfeited), the vesting of such IAC Restricted Stock Units shall cease to be subject to satisfaction of performance goals (subject to the last sentence of this Section 5.3(g)(i)), the IAC Restricted Stock Units shall Cliff Vest on the three-year anniversary of the initial grant date of such Growth Share Award and the IAC Restricted Stock Units subject to each Growth Share Award shall otherwise remain subject to the same terms and conditions, subject to any further adjustments described in this Section 5.3(g). The vesting of Growth Share Awards intended to satisfy the performance-based compensation exception under Section 162(m) of the Code will remain subject to applicable performance goals adopted for purposes of Section 162(m) of the Code.

(ii) Accelerated Vesting and Settlement of Certain IAC Restricted Stock Units. As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, (I) all IAC Restricted Stock Units (x) awarded prior to August 8, 2005 or (y) awarded on or after August 8, 2005, but prior to January 1, 2008, and scheduled to vest on or before February 28, 2009, and (II) all PV IAC Restricted Stock Units (as defined below) held by award holders with respect to whom the Committee determines to provide for accelerated vesting on the Distribution Date (clauses (I) and (II) together, “Accelerated RSUs”):

(A) subject to the proviso below, with respect to the Accelerated RSUs listed on **Schedule [ ]**, such Accelerated RSUs will vest on the Distribution Date and be settled on January 2, 2009, such that on January 2, 2009, for each share of IAC Common Stock underlying any such award immediately prior to the Effective Time, the holder of such award shall be entitled to receive (subject to application of Section 5.3(g)(x) below): (1) a number of shares of IAC Common Stock, rounded up to the nearest whole share, equal to the number of shares of IAC Common Stock to which the holder would be entitled if the holder held the shares of IAC Common Stock underlying such IAC Restricted Stock Units immediately prior to the Effective Time (“Delayed IAC Common Stock”); (2) a number of shares of TM Common Stock, rounded up to the nearest whole share, equal to the number of

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shares of TM Common Stock to which the holder would be entitled if the holder held the shares of IAC Common Stock underlying such IAC Restricted Stock Units immediately prior to the Effective Time (“Delayed TM Common Stock”) (this clause (2) shall not apply if IAC does not distribute shares of TM Common Stock on the Distribution Date); (3) a number of shares of Interval Common Stock, rounded up to the nearest whole share, equal to the number of shares of Interval Common Stock to which the holder would be entitled if the holder held the shares of IAC Common Stock underlying such IAC Restricted Stock Units immediately prior to the Effective Time (“Delayed Interval Common Stock”) (this clause (3) shall not apply if IAC does not distribute shares of Interval Common Stock on the Distribution Date); (4) a number of shares of HSN Common Stock, rounded up to the nearest whole share, equal to the number of shares of HSN Common Stock to which the holder would be entitled if the holder held the shares of IAC Common Stock underlying such IAC Restricted Stock Units immediately prior to the Effective Time (“Delayed HSN Common Stock”) (this clause (4) shall not apply if IAC does not distribute shares of HSN Common Stock on the Distribution Date); and (5) a number of shares of Tree Common Stock, rounded up to the nearest whole share, equal to the number of shares of Tree Common Stock to which the holder would be entitled if the holder held the shares of IAC Common Stock underlying such IAC Restricted Stock Units immediately prior to the Effective Time (“Delayed Tree Common Stock,” and together with Delayed IAC Common Stock, Delayed TM Common Stock, Delayed Interval Common Stock and Delayed HSN Common Stock, “Delayed Common Stock”) (this clause (5) shall not apply if IAC does not distribute shares of Tree Common Stock on the Distribution Date); provided, however, that immediately prior to the Effective Time, with respect to each individual holding IAC Restricted Stock Units subject to this Section 5.3(g)(ii), IAC shall settle a number of IAC Restricted Stock Units (and withhold the corresponding number of shares of IAC Common Stock underlying such IAC Restricted Stock Units) sufficient to satisfy (x) any tax payable by such holder under the Federal Insurance Contributions Act (“FICA”) by virtue of the operation of this Section 5.3(b)(ii) (the “FICA Amount”), and (y) applicable income tax on wages imposed under Section 3401 of the Code or the corresponding withholding provisions of applicable state, local or foreign tax laws as a result of the payment of the FICA Amount, and to pay the additional income tax at source on wages attributable to the pyramiding Code Section 3401 wages and taxes; provided, further, however, that any fractional amounts remaining after payment of the foregoing shall be converted into cash and shall accrue interest at the applicable federal rate provided for in Section 7872(f)(2)(A) of the Code and shall be payable by IAC on January 2, 2009;

(B) with respect to any holder whose Accelerated RSUs are not subject to Tax in the United States and are not subject to Section 409A of the Code, such holder’s Accelerated RSUs will vest immediately prior to the Effective Time and be settled in cash in accordance with IAC’s customary practices applicable to such Exempt Holder; and

(C) with respect to all other Accelerated RSUs not addressed in clause (A) or clause (B) above, such Accelerated RSUs will vest immediately prior to the Effective Time and be settled as soon as reasonably practicable following the Effective Time, such that for each share of IAC Common Stock underlying any such award immediately prior to the Effective Time (less a number of shares of IAC Common Stock withheld to satisfy any tax withholding obligations with respect to the vesting and settlement of such IAC Restricted Stock Units, such withholding based on the value of a share of IAC Common Stock trading “regular way with due bills”),

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IAC will deliver or cause to be delivered: (1) a number of shares of IAC Common Stock, rounded up to the nearest whole share, equal to the number of shares of IAC Common Stock to which the holder would be entitled if the holder held the shares of IAC Common Stock underlying such IAC Restricted Stock Units immediately prior to the Effective Time; (2) a number of shares of TM Common Stock, rounded up to the nearest whole share, equal to the number of shares of TM Common Stock to which the holder would be entitled if the holder held the shares of IAC Common Stock underlying such IAC Restricted Stock Units immediately prior to the Effective Time (this clause (2) shall not apply if IAC does not distribute shares of TM Common Stock on the Distribution Date); (3) a number of shares of Interval Common Stock, rounded up to the nearest whole share, equal to the number of shares of Interval Common Stock to which the holder would be entitled if the holder held the shares of IAC Common Stock

underlying such IAC Restricted Stock Units immediately prior to the Effective Time (this clause (3) shall not apply if IAC does not distribute shares of Interval Common Stock on the Distribution Date); (4) a number of shares of HSN Common Stock, rounded up to the nearest whole share, equal to the number of shares of HSN Common Stock to which the holder would be entitled if the holder held the shares of IAC Common Stock underlying such IAC Restricted Stock Units immediately prior to the Effective Time (this clause (4) shall not apply if IAC does not distribute shares of HSN Common Stock on the Distribution Date); and (5) a number of shares of Tree Common Stock, rounded up to the nearest whole share, equal to the number of shares of Tree Common Stock to which the holder would be entitled if the holder held the shares of IAC Common Stock underlying such IAC Restricted Stock Units immediately prior to the Effective Time (this clause (5) shall not apply if IAC does not distribute shares of Tree Common Stock on the Distribution Date).

(iii) Treatment of Certain Cliff Vesting IAC Restricted Stock Unit Awards Scheduled to Vest After February 28, 2009. As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, for each Cliff Vesting IAC Restricted Stock Unit Award granted prior to January 1, 2008 and scheduled to vest after February 28, 2009 (including the Growth Share Awards), with respect to such number of IAC Restricted Stock Units (rounded up to the nearest whole share) (the "PV IAC Restricted Stock Units") that would have vested on or before February 28, 2009 if the award had been an annual installment vesting award (e.g., 60% of a 5-year cliff-vesting award granted on February 1 of 2006), for all award holders (other than award holders with respect to whom the Committee determines to provide for accelerated vesting as contemplated by clause (ii) above), the PV IAC Restricted Stock Units held as of immediately prior to the Effective Time shall be converted at the Effective Time into:

(A) IAC Restricted Stock Units, and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such PV IAC Restricted Stock Unit immediately prior to the Effective Time, subject to the following adjustment which shall apply from and after the Effective Time: the number of shares of IAC Common Stock covered by such IAC Restricted Stock Units held by the participant, as applicable, rounded up to the nearest whole share, shall be equal to the number of shares of IAC Common Stock to which the holder of the PV IAC Restricted Stock Units would be entitled had the PV IAC Restricted Stock Units represented actual shares of IAC Common Stock immediately prior to the Effective Time;

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(B) TM Restricted Stock Units, and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such PV IAC Restricted Stock Units immediately prior to the Effective Time, subject to the following adjustment which shall apply from and after the Effective Time: the number of shares of TM Common Stock covered by such TM Restricted Stock Units held by the participant, as applicable, rounded up to the nearest whole share, shall be equal to the number of shares of TM Common Stock to which the holder of the PV IAC Restricted Stock Units would be entitled had the PV IAC Restricted Stock Units represented actual shares of IAC Common Stock immediately prior to the Effective Time (this clause (B) shall not apply if IAC does not distribute shares of TM Common Stock on the Distribution Date);

(C) Interval Restricted Stock Units, and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such PV IAC Restricted Stock Units immediately prior to the Effective Time, subject to the following adjustment which shall apply from and after the Effective Time: the number of shares of Interval Common Stock covered by such Interval Restricted Stock Units held by the participant, as applicable, rounded up to the nearest whole share, shall be equal to the number of shares of Interval Common Stock to which the holder of the PV IAC Restricted Stock Units would be entitled had the PV IAC Restricted Stock Units represented actual shares of IAC Common Stock immediately prior to the Effective Time (this clause (C) shall not apply if IAC does not distribute shares of Interval Common Stock on the Distribution Date);

(D) HSN Restricted Stock Units, and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such PV IAC Restricted Stock Units immediately prior to the Effective Time, subject to the following adjustment which shall apply from and after the Effective Time: the number of shares of HSN Common Stock covered by such HSN Restricted Stock Units held by the participant, as applicable, rounded up to the nearest whole share, shall be equal to the number of shares of HSN Common Stock to which the holder of the PV IAC Restricted Stock Units would be entitled had the PV IAC Restricted Stock Units represented actual shares of IAC Common Stock immediately prior to the Effective Time (this clause (D) shall not apply if IAC does not distribute shares of HSN Common Stock on the Distribution Date); and

(E) Tree Restricted Stock Units, and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such PV IAC Restricted Stock Units immediately prior to the Effective Time, subject to the following adjustment which shall apply from and after the Effective Time: the number of shares of Tree Common Stock covered by such Tree Restricted Stock Units held by the participant, as applicable, rounded up to the nearest whole share, shall be equal to the number of shares of Tree Common Stock to which the holder of the PV IAC Restricted Stock Units would be entitled had the PV IAC Restricted Stock Units represented actual shares of IAC Common Stock immediately prior to the Effective Time (this clause (E) shall not apply if IAC does not distribute shares of Tree Common Stock on the Distribution Date).

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(iv) Other IAC Restricted Stock Units Held by IAC Employees and Former IAC Employees. As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, the IAC Restricted Stock Units held by an IAC Employee or a Former IAC Employee (other than those IAC Restricted Stock Units converted pursuant to Section 5.3(g)(ii) or Section 5.3(g)(iii)) shall be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Restricted Stock Units immediately prior to the Effective Time, subject to the following adjustment which shall apply from and after the Effective Time: the number of shares of IAC Common Stock covered by such IAC Restricted Stock Units, rounded up to the nearest whole share, shall be equal to the product of (A) the number of shares of IAC Common Stock covered by such IAC Restricted Stock Units immediately prior to the Effective Time and (B) the IAC Ratio.

(v) Other IAC Restricted Stock Units Held by TM Employees and Former TM Employees. As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, the IAC Restricted Stock Units held by a TM Employee or a Former

TM Employee as of the Effective Time (other than those IAC Restricted Stock Units converted pursuant to Section 5.3(g)(ii) or Section 5.3(g)(iii)) shall be converted at the Effective Time into TM Restricted Stock Units, and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Restricted Stock Units immediately prior to the Effective Time, subject to the following adjustment which shall apply from and after the Effective Time: the number of shares of TM Common Stock covered by such TM Restricted Stock Units held by the participant, as applicable, rounded up to the nearest whole share, shall be equal to the product of (A) the number of shares of IAC Common Stock covered by such IAC Restricted Stock Units immediately prior to the Effective Time and (B) the TM Ratio. This clause (v) shall not apply if IAC does not distribute shares of TM Common Stock on the Distribution Date.

(vi) Other IAC Restricted Stock Units Held by Interval Employees and Former Interval Employees. As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, the IAC Restricted Stock Units held by an Interval Employee or a Former Interval Employee as of the Effective Time (other than those IAC Restricted Stock Units converted pursuant to Section 5.3(g)(ii) or Section 5.3(g)(iii)) shall be converted at the Effective Time into Interval Restricted Stock Units, and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Restricted Stock Units immediately prior to the Effective Time, subject to the following adjustment which shall apply from and after the Effective Time: the number of shares of Interval Common Stock covered by such Interval Restricted Stock Units held by the participant, as applicable, rounded up to the nearest whole share, shall be equal to the product of (A) the number of shares of IAC Common Stock covered by such IAC Restricted Stock Units immediately prior to the Effective Time and (B) the Interval Ratio. This clause (vi) shall not apply if IAC does not distribute shares of Interval Common Stock on the Distribution Date.

(vii) Other IAC Restricted Stock Units Held by HSN Employees and Former HSN Employees. As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, the IAC Restricted Stock Units held by a HSN Employee or a Former HSN Employee as of the Effective Time (other

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than those IAC Restricted Stock Units converted pursuant to Section 5.3(g)(ii) or Section 5.3(g)(iii)) shall be converted at the Effective Time into HSN Restricted Stock Units, and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Restricted Stock Units immediately prior to the Effective Time, subject to the following adjustment which shall apply from and after the Effective Time: the number of shares of HSN Common Stock covered by such HSN Restricted Stock Units held by the participant, as applicable, rounded up to the nearest whole share, shall be equal to the product of (A) the number of shares of IAC Common Stock covered by such IAC Restricted Stock Units immediately prior to the Effective Time and (B) the HSN Ratio. This clause (vii) shall not apply if IAC does not distribute shares of HSN Common Stock at the Effective Time.

(viii) Other IAC Restricted Stock Units Held by Tree Employees and Former Tree Employees. As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, the IAC Restricted Stock Units held by a Tree Employee or a Former Tree Employee as of the Effective Time (other than those IAC Restricted Stock Units converted pursuant to Section 5.3(g)(ii) or Section 5.3(g)(iii)) shall be converted at the Effective Time into Tree Restricted Stock Units, and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Restricted Stock Units immediately prior to the Effective Time, subject to the following adjustment which shall apply from and after the Effective Time: the number of shares of Tree Common Stock covered by such Tree Restricted Stock Units held by the participant, as applicable, rounded up to the nearest whole share, shall be equal to the product of (A) the number of shares of IAC Common Stock covered by such IAC Restricted Stock Units immediately prior to the Effective Time and (B) the Tree Ratio. This clause (viii) shall not apply if IAC does not distribute shares of Tree Common Stock at the Effective Time.

(ix) IAC Restricted Stock Units Held by Specified Individuals. As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, notwithstanding anything to the contrary set forth in this Section 5.3(g), the IAC Restricted Stock Units set forth on **Exhibit B** to this Agreement shall be treated in the manner set forth on **Exhibit B** to this Agreement.

(x) Settlement of Delayed Common Stock; Delayed Common Stock Diversification Arrangement. Each holder's Delayed Common Stock will be recorded in a book entry account administered by Deloitte LLP and each such book entry account will be subdivided among each Party's Delayed Common Stock and further subdivided between stock settled accounts and cash settled accounts. Each holder of Delayed Common Stock will have the ability to elect to convert any of such holder's Delayed Common Stock to a cash settled account on not more than three occasions with respect to each Party's Delayed Common Stock based on (1) the closing trading price of the applicable Delayed Common Stock on the date of the holder's election if the holder makes an election during trading hours or (2) the closing trading price of the applicable Delayed Common Stock during the next trading session immediately following the holder's election if the holder makes an election outside of trading hours (elections shall be made solely with respect to whole shares of Delayed Common Stock) (or based on such other methodology as IAC shall determine in its sole discretion and communicate to holders of Delayed Common Stock). Elections with respect to this diversification arrangement shall be irrevocable. Cash settled accounts will accrue interest at 2.5% per annum. Individuals will not be entitled to

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move amounts from cash settled accounts into stock settled accounts. Accounts will be frozen during the ten days immediately following the Separation and from November 30, 2008 through January 2, 2009. On January 2, 2009, each Party will settle all cash and stock denominated accounts relating to such Party's Delayed Common Stock using shares of such Party's common stock with respect to stock denominated accounts and U.S. dollars with respect to cash denominated accounts and such settlement obligation shall be a Liability solely of such Party and no other Party to this Agreement. IAC shall have sole discretion to modify the diversification arrangement.

(h) IAC Restricted Stock. Shares of IAC Restricted Stock that are outstanding immediately prior to the Effective Time shall be treated in the Separation in the same manner as other outstanding shares of IAC Common Stock are treated in the Separation and will otherwise be subject to the same terms and conditions (including vesting conditions) applicable to such shares of IAC Restricted Stock immediately prior to the Separation.

(i) Foreign Grants/Awards. To the extent that the IAC Awards or any of the IAC Options are granted to non-U.S. employees under any domestic or foreign equity-based incentive program sponsored by an IAC Entity, IAC, TM, Interval, HSN and Tree shall use their commercially reasonable efforts to preserve, at and after the Effective Time, the value and tax treatment accorded to such IAC Options and such IAC Awards granted to non-U.S. employees under any domestic or foreign equity-based incentive program sponsored by an IAC Entity.

(j) Miscellaneous Option and Other Award Terms.

(i) After the Distribution Date, (A) IAC Options and IAC Awards adjusted pursuant to Section 5.3, regardless of by whom held, shall be settled by IAC pursuant to the terms of the applicable IAC Long-Term Incentive Plan, (B) TM Options and TM Awards, regardless of by whom held, shall be settled by TM pursuant to the terms of the TM Long-Term Incentive Plan, (C) Interval Options and Interval Awards, regardless of by whom held, shall be settled by Interval pursuant to the terms of the Interval Long-Term Incentive Plan, (D) HSN Options and HSN Awards, regardless of by whom held, shall be settled by HSN pursuant to the terms of the HSN Long-Term Incentive Plan, and (E) Tree Options and Tree Awards, regardless of by whom held, shall be settled by Tree pursuant to the terms of the Tree Long-Term Incentive Plan.

(ii) Accordingly, it is intended that, (A) to the extent of the issuance of such TM Options and TM Awards in connection with the adjustment provisions of this Section 5.3, the TM Long-Term Incentive Plan shall be considered a successor to each of the IAC Long-Term Incentive Plans and to have assumed the obligations of the applicable IAC Long-Term Incentive Plan to make the adjustment of the IAC Options and IAC Awards as set forth in this Section 5.3, (B) to the extent of the issuance of such Interval Options and Interval Awards in connection with the adjustment provisions of this Section 5.3, the Interval Long-Term Incentive Plan shall be considered a successor to each of the IAC Long-Term Incentive Plans and to have assumed the obligations of the applicable IAC Long-Term Incentive Plan to make the adjustment of the IAC Options and IAC Awards as set forth in this Section 5.3, (C) to the extent of the issuance of such HSN Options and HSN Awards in connection with the adjustment provisions of this Section 5.3, the HSN Long-Term Incentive Plan shall be considered a successor to each of the IAC Long-Term

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Incentive Plans and to have assumed the obligations of the applicable IAC Long-Term Incentive Plan to make the adjustment of the IAC Options and IAC Awards as set forth in this Section 5.3 and (D) to the extent of the issuance of such Tree Options and Tree Awards in connection with the adjustment provisions of this Section 5.3, the Tree Long-Term Incentive Plan shall be considered a successor to each of the IAC Long-Term Incentive Plans and to have assumed the obligations of the applicable IAC Long-Term Incentive Plan to make the adjustment of the IAC Options and IAC Awards as set forth in this Section 5.3.

(iii) (A) The Effective Time shall not constitute a termination of employment for any TM Employees for purposes of any IAC Option or IAC Award, any Interval Option or Interval Award, any HSN Option or HSN Award or any Tree Option or Tree Award and, except as otherwise provided in this Agreement, with respect to grants adjusted pursuant to this Section 5.3, employment with TM shall be treated as employment with IAC with respect to IAC Options or IAC Awards held by TM Employees, employment with TM shall be treated as employment with Interval with respect to Interval Options or Interval Awards held by TM Employees, employment with TM shall be treated as employment with HSN with respect to HSN Options and HSN Awards held by TM Employees and employment with TM shall be treated as employment with Tree with respect to Tree Options and Tree Awards held by TM Employees.

(B) The Effective Time shall not constitute a termination of employment for any Interval Employees for purposes of any IAC Option or IAC Award, any TM Option or TM Award, any HSN Option or HSN Award or any Tree Option or Tree Award and, except as otherwise provided in this Agreement, with respect to grants adjusted pursuant to this Section 5.3, employment with Interval shall be treated as employment with IAC with respect to IAC Options or IAC Awards held by Interval Employees, employment with Interval shall be treated as employment with TM with respect to TM Options or TM Awards held by Interval Employees, employment with Interval shall be treated as employment with HSN with respect to HSN Options and HSN Awards held by Interval Employees and employment with Interval shall be treated as employment with Tree with respect to Tree Options and Tree Awards held by Interval Employees.

(C) The Effective Time shall not constitute a termination of employment for any HSN Employees for purposes of any IAC Option or IAC Award, any TM Option or TM Award, any Interval Option or Interval Award or any Tree Option or Tree Award and, except as otherwise provided in this Agreement, with respect to grants adjusted pursuant to this Section 5.3, employment with HSN shall be treated as employment with IAC with respect to IAC Options or IAC Awards held by HSN Employees, employment with HSN shall be treated as employment with TM with respect to TM Options or TM Awards held by HSN Employees, employment with HSN shall be treated as employment with Interval with respect to Interval Options and Interval Awards held by HSN Employees and employment with HSN shall be treated as employment with Tree with respect to Tree Options and Tree Awards held by HSN Employees.

(D) The Effective Time shall not constitute a termination of employment for any Tree Employees for purposes of any IAC Option or IAC Award, any TM Option or TM Award, any Interval Option or Interval Award or any Tree Option or Tree Award and, except as otherwise provided in this Agreement, with

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respect to grants adjusted pursuant to this Section 5.3, employment with Tree shall be treated as employment with IAC with respect to IAC Options or IAC Awards held by Tree Employees, employment with Tree shall be treated as employment with TM with respect to TM Options or TM Awards held by Tree Employees, employment with Tree shall be treated as employment with Interval with respect to Interval Options and Interval Awards held by Tree Employees and employment with Tree shall be treated as employment with HSN with respect to HSN Options and HSN Awards held by Tree Employees.

(E) Except as otherwise provided in this Agreement, with respect to grants adjusted pursuant to this Section 5.3, employment with IAC shall be treated as employment with TM with respect to TM Options or TM Awards held by IAC Employees, employment with IAC shall be treated as employment with Interval with respect to Interval Options and Interval Awards held by IAC Employees, employment with IAC shall be treated as employment with HSN with respect to HSN Options and HSN Awards held by IAC Employees and employment with IAC shall be treated as employment with Tree with respect to Tree Options and Tree Awards held by IAC Employees.

(k) Waiting Period for Exercisability of Options and Grant of Options and Awards. The IAC Options, TM Options, Interval Options, HSN Options and Tree Options shall not be exercisable during a period beginning on a date prior to the Distribution Date determined by IAC in its sole discretion, and continuing until the IAC Post-Separation Stock Value, the TM Stock Value, the Interval Stock Value, the HSN Stock Value and the Tree Stock Value are determined after the Effective Time, or such longer period as IAC, with respect to IAC Options, TM, with respect to TM Options, Interval, with respect to Interval Options, HSN, with respect to HSN Options and Tree, with respect to Tree Options, determines necessary to implement the provisions of this Section 5.3. The IAC Restricted Stock Units, TM Restricted Stock Units, Interval Restricted Stock Units, HSN Restricted Stock Units and Tree Restricted Stock Units shall not be settled during a period beginning on a date prior to the Distribution Date determined by IAC in its sole discretion, and continuing until the IAC Post-Separation Stock Value, the TM Stock Value, the Interval Stock Value, the HSN Stock Value and the Tree Stock Value are determined immediately after the Effective Time, or such longer period as IAC, with respect to IAC Restricted Stock Units, TM, with respect to TM Restricted Stock Units, Interval, with respect to Interval Restricted Stock Units, HSN, with respect to HSN Stock Units and Tree, with respect to Tree Stock Units, determines necessary to implement the provisions of this Section 5.3.

(l) Exercise of IAC Options after Distribution Record Date and prior to the Distribution Date; IAC RSUs that Vest after Distribution Record Date and prior to the Distribution Date.

(i) In the event that any holder exercises an IAC Option after the first Distribution Record Date (as defined in the Separation Agreement) and prior to the third Business Day immediately preceding the Distribution Date (option exercises will not be permitted during the three Business Days immediately preceding the Distribution Date), IAC will coordinate with Smith Barney to ensure that such holder exercises such IAC Option with respect to shares of IAC Common Stock trading “regular way with due bills.”

(ii) With respect to any individual that holds IAC Restricted Stock Units that vest after the first Distribution Record Date (as defined in the Separation

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Agreement) and prior to the Distribution Date, (1) IAC will deliver (or cause to be delivered) to such holder shares of IAC Common Stock in settlement of such IAC Restricted Stock Units due to such holder upon vesting, giving effect to the withholding of shares of IAC Common Stock to satisfy any tax withholding obligations with respect to the settlement of such IAC Restricted Stock Units, such withholding based on the value of a share of IAC Common Stock trading “regular way with due bills” (the number of shares, net of shares withheld to satisfy the tax withholding obligations, the “*Net RSU Shares*”) and (2) as soon as reasonably practicable following the Distribution Date, IAC will be obligated to deliver to such holder (x) the number of shares of SpinCo Common Stock with respect to each SpinCo (and any cash in lieu of fractional shares) that such holder would be entitled to receive if the holder owned the number of Net RSU Shares on the first Distribution Record Date (as defined in the Separation Agreement).

(m) Obligation to Deliver Shares. Except as provided in Section 5.3(l):

(i) The obligation to deliver shares of IAC Common Stock upon the exercise of IAC Stock Options or the settlement of IAC Restricted Stock Units shall be a Liability of IAC.

(ii) The obligation to deliver shares of TM Common Stock upon the exercise of TM Stock Options or the settlement of TM Restricted Stock Units shall be a Liability of TM.

(iii) The obligation to deliver shares of HSN Common Stock upon the exercise of HSN Stock Options or the settlement of HSN Restricted Stock Units shall be a Liability of HSN.

(iv) The obligation to deliver shares of Interval Common Stock upon the exercise of Interval Stock Options or the settlement of Interval Restricted Stock Units shall be a Liability of Interval.

(v) The obligation to deliver shares of Tree Common Stock upon the exercise of Tree Stock Options or the settlement of Tree Restricted Stock Units shall be a Liability of Tree.

(n) Equity and Bonus Compensation Agreement with Barry Diller. For the avoidance of doubt, Section 5 of the Equity and Bonus Compensation Agreement with Barry Diller shall be binding on IAC and each SpinCo to the extent that any payment or distribution by such Party to or for the benefit of Mr. Diller would be subject to the excise tax imposed by Section 4999 of the Code or any interest or penalties are incurred by Mr. Diller with respect to such excise tax.

(o) Abandonment. In the event that on or prior to the Distribution Date IAC abandons a Distribution (as defined in the Separation Agreement) with respect to one or more SpinCos, the adjustments set forth in this Section 5.3 will apply as described above except that there will be no conversion of IAC equity awards into equity awards of a SpinCo the shares of common stock of which IAC does not distribute and SpinCo Employees and Former SpinCo Employees of any such SpinCo will be treated as IAC Employees and Former IAC Employees, respectively, for purposes of such adjustments.

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(p) Restrictive Covenants.

(i) Following the Distribution Date, TM shall use commercially reasonable efforts to monitor the TM Employees and Former TM Employees to determine whether any such TM Employees or Former TM Employees have breached any of the restrictive covenants in the agreements evidencing the terms of their IAC Options and IAC Awards. As soon as practicable following TM’s reasonable belief that a TM Employee or Former TM Employee has breached any such covenant, TM shall provide IAC in writing with the name and address of such employee or former employee and a description of the breach that such employee or former employee is believed to have committed. Notwithstanding the foregoing or anything in any agreement evidencing the terms of any IAC Options and IAC Awards or otherwise to the contrary, it shall not be a

violation of any IAC non-competition or non-solicitation of clients or customers covenant for a TM Employee to engage in acts on behalf of TM or a TM Entity that are otherwise prohibited by the terms of such non-competition or non-solicitation of clients or customers covenants and it shall not be a violation of any TM non-competition or non-solicitation of clients or customers covenant for an IAC Employee to engage in acts on behalf of IAC or an IAC Entity that are otherwise prohibited by the terms of such non-competition or non-solicitation of clients or customers covenants. In addition, following the Effective Time, the restrictive covenants (including without limitation any proprietary rights agreements or confidential information covenants) to which any TM Employee or Former TM Employee are party shall run in favor of TM (and, to the extent relating to IAC, shall run in favor of IAC to the same extent that they ran in favor of IAC immediately prior to the Effective Time; provided, that the Effective Time shall be treated as a termination of employment from IAC for purposes of the duration of IAC's ability to enforce the restrictive covenant) and the restrictive covenants to which any IAC Employee or Former IAC Employee are party shall run in favor of IAC. Any employment agreement between IAC and a TM Employee or Former TM Employee shall as of the Effective Time be assigned by IAC to TM and assumed by TM.

(ii) Following the Distribution Date, Interval shall use commercially reasonable efforts to monitor the Interval Employees and Former Interval Employees to determine whether any such Interval Employees or Former Interval Employees have breached any of the restrictive covenants in the agreements evidencing the terms of their IAC Options and IAC Awards. As soon as practicable following Interval's reasonable belief that an Interval Employee or Former Interval Employee has breached any such covenant, Interval shall provide IAC in writing with the name and address of such employee or former employee and a description of the breach that such employee or former employee is believed to have committed. Notwithstanding the foregoing or anything in any agreement evidencing the terms of any IAC Options and IAC Awards or otherwise to the contrary, it shall not be a violation of any IAC non-competition or non-solicitation of clients or customers covenant for an Interval Employee to engage in acts on behalf of Interval or an Interval Entity that are otherwise prohibited by the terms of such non-competition or non-solicitation of clients or customers covenants and it shall not be a violation of any Interval non-competition or non-solicitation of clients or customers covenant for an IAC Employee to engage in acts on behalf of IAC or an IAC Entity that are otherwise prohibited by the terms of such non-competition or non-solicitation of clients or customers covenants. In addition, following the Effective Time, the restrictive covenants (including without limitation any proprietary rights agreements or confidential information covenants) to which any Interval Employee or Former Interval Employee are party shall run in favor of Interval (and, to the extent relating to IAC, shall run in favor of IAC to the same extent that they ran in favor of IAC

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immediately prior to the Effective Time; provided, that the Effective Time shall be treated as a termination of employment from IAC for purposes of the duration of IAC's ability to enforce the restrictive covenant) and the restrictive covenants to which any IAC Employee or Former IAC Employee are party shall run in favor of IAC. Any employment agreement between IAC and an Interval Employee or Former Interval Employee shall as of the Effective Time be assigned by IAC to Interval and assumed by Interval.

(iii) Following the Distribution Date, HSN shall use commercially reasonable efforts to monitor the HSN Employees and Former HSN Employees to determine whether any such HSN Employees or Former HSN Employees have breached any of the restrictive covenants in the agreements evidencing the terms of their IAC Options and IAC Awards. As soon as practicable following HSN's reasonable belief that an HSN Employee or Former HSN Employee has breached any such covenant, HSN shall provide IAC in writing with the name and address of such employee or former employee and a description of the breach that such employee or former employee is believed to have committed. Notwithstanding the foregoing or anything in any agreement evidencing the terms of any IAC Options and IAC Awards or otherwise to the contrary, it shall not be a violation of any IAC non-competition or non-solicitation of clients or customers covenant for an HSN Employee to engage in acts on behalf of HSN or an HSN Entity that are otherwise prohibited by the terms of such non-competition or non-solicitation of clients or customers covenants and it shall not be a violation of any HSN non-competition or non-solicitation of clients or customers covenant for an IAC Employee to engage in acts on behalf of IAC or an IAC Entity that are otherwise prohibited by the terms of such non-competition or non-solicitation of clients or customers covenants. In addition, following the Effective Time, the restrictive covenants (including without limitation any proprietary rights agreements or confidential information covenants) to which any HSN Employee or Former HSN Employee are party shall run in favor of HSN (and, to the extent relating to IAC, shall run in favor of IAC to the same extent that they ran in favor of IAC immediately prior to the Effective Time; provided, that the Effective Time shall be treated as a termination of employment from IAC for purposes of the duration of IAC's ability to enforce the restrictive covenant) and the restrictive covenants to which any IAC Employee or Former IAC Employee are party shall run in favor of IAC. Any employment agreement between IAC and an HSN Employee or Former HSN Employee shall as of the Effective Time be assigned by IAC to HSN and assumed by HSN.

(iv) Following the Distribution Date, Tree shall use commercially reasonable efforts to monitor the Tree Employees and Former Tree Employees to determine whether any such Tree Employees or Former Tree Employees have breached any of the restrictive covenants in the agreements evidencing the terms of their IAC Options and IAC Awards. As soon as practicable following Tree's reasonable belief that a Tree Employee or Former Tree Employee has breached any such covenant, Tree shall provide IAC in writing with the name and address of such employee or former employee and the name and a description of the breach that such employee or former employee is believed to have committed. Notwithstanding the foregoing or anything in any agreement evidencing the terms of any IAC Options and IAC Awards or otherwise to the contrary, it shall not be a violation of any IAC non-competition or

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non-solicitation of clients or customers covenant for a Tree Employee to engage in acts on behalf of Tree or a Tree Entity that are otherwise prohibited by the terms of such non-competition or non-solicitation of clients or customers covenants and it shall not be a violation of any Tree non-competition or non-solicitation of clients or customers covenant for an IAC Employee to engage in acts on behalf of IAC or an IAC Entity that are otherwise prohibited by the terms of such non-competition or non-solicitation of clients or customers covenants. In addition, following the Effective Time, the restrictive covenants (including without limitation any proprietary rights agreements or confidential information covenants) to which any Tree Employee or Former Tree Employee are party shall run in favor of Tree (and, to the extent relating to IAC, shall run in favor of IAC to the same extent that they ran in favor of IAC immediately prior to the Effective Time; provided, that the Effective Time shall be treated as a termination of employment from IAC for purposes of the duration of IAC's ability to enforce the restrictive covenant) and the restrictive covenants to which any IAC Employee or Former IAC Employee are party shall run in favor of IAC. Any employment agreement between IAC and a Tree Employee or Former Tree Employee shall as of the Effective Time be assigned by IAC to Tree and assumed by Tree.

(a) As soon as possible following the time as of which the Registration Statement (as defined in the Separation Agreement) is declared effective by the Securities and Exchange Commission but in any case before the Distribution Date, TM agrees that it shall file a Form S-8 Registration Statement and a Form S-3 Registration Statement with respect to and cause to be registered pursuant to the Securities Act of 1933, as amended, the shares of TM Common Stock authorized for issuance under the TM Long-Term Incentive Plan as required pursuant to such Act and any applicable rules or regulations thereunder, with such registration to be effective prior to the Distribution Date.

(b) As soon as possible following the time as of which the Registration Statement (as defined in the Separation Agreement) is declared effective by the Securities and Exchange Commission but in any case before the Distribution Date, Interval agrees that it shall file a Form S-8 Registration Statement and a Form S-3 Registration Statement with respect to and cause to be registered pursuant to the Securities Act of 1933, as amended, the shares of Interval Common Stock authorized for issuance under the Interval Long-Term Incentive Plan as required pursuant to such Act and any applicable rules or regulations thereunder, with such registration to be effective prior to the Distribution Date.

(c) As soon as possible following the time as of which the Registration Statement (as defined in the Separation Agreement) is declared effective by the Securities and Exchange Commission but in any case before the Distribution Date, HSN agrees that it shall file a Form S-8 Registration Statement and a Form S-3 Registration Statement with respect to and cause to be registered pursuant to the Securities Act of 1933, as amended, the shares of HSN Common Stock authorized for issuance under the HSN Long-Term Incentive Plan as required pursuant to such Act and any applicable rules or regulations thereunder, with such registration to be effective prior to the Distribution Date.

(d) As soon as possible following the time as of which the Registration Statement (as defined in the Separation Agreement) is declared effective by the Securities and Exchange Commission but in any case before the Distribution Date, Tree agrees that it shall file a Form S-8 Registration Statement and a Form S-3 Registration Statement with respect to and cause to be registered pursuant to the Securities Act of 1933, as amended, the shares of Tree Common Stock authorized for issuance under the Tree Long-Term Incentive Plan as required pursuant to such Act and any applicable rules or regulations thereunder, with such registration to be effective prior to the Distribution Date.

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(e) IAC agrees that, following the Distribution Date, it shall use reasonable efforts to continue to maintain a Form S-8 Registration Statement with respect to and cause to be registered pursuant to the Securities Act of 1933, as amended, the shares of IAC Common Stock authorized for issuance under the IAC Long-Term Incentive Plans as required pursuant to such Act and any applicable rules or regulations thereunder.

#### 5.5 Executive Deferred Compensation Plans.

(a) Effective as of the Distribution Date, TM shall establish a deferred compensation plan (the "TM Deferred Compensation Plan") and a related rabbi trust (the "TM Rabbi Trust"), each of which is substantially identical to the IAC/InterActiveCorp Executive Deferred Compensation Plan ("IAC Deferred Compensation Plan") and the related rabbi trust for the IAC Deferred Compensation Plan (the "IAC Rabbi Trust"), to provide benefits to TM Employees and Former TM Employees from and after the Distribution Date who were participants in the IAC Deferred Compensation Plan as of immediately prior to the Distribution Date ("TM Participants"). All benefits under the IAC Deferred Compensation Plan with respect to TM Participants shall be assumed by TM and paid under the TM Deferred Compensation Plan. Effective on the Distribution Date or as soon as administratively practicable after the Distribution Date, IAC shall cause the trustee of the IAC Rabbi Trust to transfer an amount of assets from the IAC Rabbi Trust to the TM Rabbi Trust equal to the account balances of TM Participants as of the date of such transfer to fund the benefits of TM Participants under the TM Deferred Compensation Plan.

(b) Effective as of the Distribution Date, each Interval Employee and Former Interval Employee shall be deemed to have elected to receive a lump sum distribution of his or her accrued benefits under the IAC Deferred Compensation Plan in 2009 and shall be paid such benefits by IAC in 2009 in accordance with the terms of such plans.

(c) Effective as of the Distribution Date, HSN shall establish a deferred compensation plan (the "HSN Deferred Compensation Plan") that is substantially identical to the IAC Deferred Compensation Plan as of immediately prior to the Distribution Date to provide benefits to HSN Employees from and after the Distribution Date who were participants in the IAC Deferred Compensation Plan as of immediately prior to the Distribution Date and had made effective elections to defer compensation earned in 2008 ("Active HSN Participants"). Each Active HSN Participant and each other HSN Employee and Former HSN Employee shall be deemed to have elected to receive a lump sum distribution of his or her accrued benefits under the IAC Deferred Compensation Plan and HSN Deferred Compensation Plan in 2009 and shall be paid such benefits in 2009 in accordance with the terms of such plans. IAC shall be liable for any benefits accrued under the IAC Deferred Compensation Plan by any Active HSN Participant, other HSN Employee and Former HSN Employee prior to the Distribution Date and HSN shall be liable for any benefits accrued by Active HSN Participants after the Distribution Date. No portion of the IAC Rabbi Trust shall be transferred to HSN or any rabbi trust established by HSN or shall be used to pay the benefits of Active HSN Participants accrued after the Distribution Date.

(d) Effective as of the Distribution Date, Tree shall establish a deferred compensation plan (the "Tree Deferred Compensation Plan") and a related rabbi trust (the "Tree Rabbi Trust") (each of which is substantially identical to the IAC Deferred Compensation Plan and IAC Rabbi Trust) to provide benefits to Tree Employees and Former Tree Employees from and after the Distribution Date who were participants in the IAC Deferred Compensation Plan as of immediately prior to the Distribution Date ("Tree Participants"). All benefits under the IAC Deferred Compensation Plan with respect to Tree

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Participants shall be assumed by Tree and paid under the Tree Deferred Compensation Plan. Effective on the Distribution Date or as soon as administratively practicable after the Distribution Date, IAC shall cause the trustee of the IAC Rabbi Trust to transfer an amount of assets from the IAC Rabbi Trust to the Tree Rabbi Trust equal to the account balances of Tree Participants as of the date of such transfer to fund the benefits of Tree Participants under the Tree Deferred Compensation Plan.

#### 5.6 Severance.

(a) A TM Employee shall not be deemed to have terminated employment for purposes of determining eligibility for severance benefits in connection with or in anticipation of the consummation of the transactions contemplated by the Separation Agreement. TM shall be solely responsible for all Liabilities in respect of all costs arising out of payments and benefits relating to the termination or alleged termination of any TM Employee or Former TM Employee's employment that occurs prior to, as a result of, in connection with or following the consummation of the transactions contemplated by the Separation Agreement, including any amounts required to be paid (including any payroll or other taxes), and the costs of providing benefits, under any applicable severance, separation, redundancy, termination or similar plan, program, practice, contract, agreement, law or regulation (such benefits to include any medical or other welfare benefits, outplacement benefits, accrued vacation, and taxes).

(b) An Interval Employee shall not be deemed to have terminated employment for purposes of determining eligibility for severance benefits in connection with or in anticipation of the consummation of the transactions contemplated by the Separation Agreement. Interval shall be solely responsible for all Liabilities in respect of all costs arising out of payments and benefits relating to the termination or alleged termination of any Interval Employee or Former Interval Employee's employment that occurs prior to, as a result of, in connection with or following the consummation of the transactions contemplated by the Separation Agreement, including any amounts required to be paid (including any payroll or other taxes), and the costs of providing benefits, under any applicable severance, separation, redundancy, termination or similar plan, program, practice, contract, agreement, law or regulation (such benefits to include any medical or other welfare benefits, outplacement benefits, accrued vacation, and taxes).

(c) An HSN Employee shall not be deemed to have terminated employment for purposes of determining eligibility for severance benefits in connection with or in anticipation of the consummation of the transactions contemplated by the Separation Agreement. HSN shall be solely responsible for all Liabilities in respect of all costs arising out of payments and benefits relating to the termination or alleged termination of any HSN Employee or Former HSN Employee's employment that occurs prior to, as a result of, in connection with or following the consummation of the transactions contemplated by the Separation Agreement, including any amounts required to be paid (including any payroll or other taxes), and the costs of providing benefits, under any applicable severance, separation, redundancy, termination or similar plan, program, practice, contract, agreement, law or regulation (such benefits to include any medical or other welfare benefits, outplacement benefits, accrued vacation, and taxes).

(d) A Tree Employee shall not be deemed to have terminated employment for purposes of determining eligibility for severance benefits in connection with or in anticipation of the consummation of the transactions contemplated by the Separation Agreement. Tree shall be solely responsible for all Liabilities in respect of all costs arising out of payments and benefits relating to the termination or alleged termination of any Tree

Employee or Former Tree Employee's employment that occurs prior to, as a result of, in connection with or following the consummation of the transactions contemplated by the Separation Agreement, including any amounts required to be paid (including any payroll or other taxes), and the costs of providing benefits, under any applicable severance, separation, redundancy, termination or similar plan, program, practice, contract, agreement, law or regulation (such benefits to include any medical or other welfare benefits, outplacement benefits, accrued vacation, and taxes).

## ARTICLE VI GENERAL AND ADMINISTRATIVE

6.1 Sharing of Participant Information. IAC and each of the SpinCos shall share with one another, and IAC shall cause each other IAC Entity to share, TM shall cause each other TM Entity to share, Interval shall cause each other Interval Entity to share, HSN shall cause each other HSN Entity to share and Tree shall cause each other Tree Entity to share with one another and their respective agents and vendors (without obtaining releases) all participant information necessary for the efficient and accurate administration of each of the IAC Benefit Plans, the TM Benefit Plans, the Interval Benefit Plans, the HSN Benefit Plans and the Tree Benefit Plans. IAC, TM, Interval, HSN, Tree and their respective authorized agents shall, subject to applicable laws, be given reasonable and timely access to, and may make copies of, all information relating to the subjects of this Agreement in the custody of such other Party, to the extent necessary for such administration. Until December 31, 2008, all participant information shall be provided in the manner and medium applicable to Participating Companies in IAC Benefit Plans generally, and thereafter until December 31, 2009, all participant information shall be provided in a manner and medium as may be agreed to by IAC, TM, Interval, HSN and/or Tree, as applicable.

6.2 Reasonable Efforts/Cooperation. Each of the Parties hereto will use its commercially reasonable efforts to promptly take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate the transactions contemplated by this Agreement. Each of the Parties hereto shall cooperate fully on any issue relating to the transactions contemplated by this Agreement for which the other Party seeks a determination letter or private letter ruling from the Internal Revenue Service, an advisory opinion from the Department of Labor or any other filing (including, but not limited to, securities filings (remedial or otherwise)), consent or approval with respect to or by a governmental agency or authority in any jurisdiction in the United States or abroad.

6.3 No Third-Party Beneficiaries. This Agreement is solely for the benefit of the Parties and is not intended to confer upon any other Persons any rights or remedies hereunder. Except as expressly provided in this Agreement, nothing in this Agreement shall preclude IAC or any other IAC Entity, at any time after the Close of the Distribution Date, from amending, merging, modifying, terminating, eliminating, reducing, or otherwise altering in any respect any IAC Benefit Plan, any benefit under any Benefit Plan or any trust, insurance policy or funding vehicle related to any IAC Benefit Plan. Except as expressly provided in this Agreement, nothing in this Agreement shall preclude TM or any other TM Entity, at any time after the Close of the Distribution Date, from amending, merging, modifying, terminating, eliminating, reducing, or otherwise altering in any respect any TM Benefit Plan, any

benefit under any Benefit Plan or any trust, insurance policy or funding vehicle related to any TM Benefit Plan. Except as expressly provided in this Agreement, nothing in this Agreement shall preclude Interval or any other Interval Entity, at any time after the Close of the Distribution Date, from amending, merging, modifying, terminating, eliminating, reducing, or otherwise altering in any respect any Interval Benefit Plan, any benefit under any Benefit Plan or any trust, insurance policy or funding vehicle related to any Interval Benefit Plan. Except as expressly provided in this Agreement, nothing in this Agreement shall preclude HSN or any other HSN Entity, at any time after the Close of the Distribution Date, from amending, merging, modifying, terminating, eliminating, reducing, or otherwise altering in any respect any HSN Benefit Plan, any benefit under any Benefit Plan or any trust, insurance policy or funding vehicle related to any HSN Benefit Plan. Except as expressly provided in this Agreement, nothing in this Agreement shall preclude Tree or any other Tree

Entity, at any time after the Close of the Distribution Date, from amending, merging, modifying, terminating, eliminating, reducing, or otherwise altering in any respect any Tree Benefit Plan, any benefit under any Benefit Plan or any trust, insurance policy or funding vehicle related to any Tree Benefit Plan.

#### 6.4 Audit Rights With Respect to Information Provided.

(a) Each Party, and its duly authorized representatives, shall have the right to conduct reasonable audits with respect to all information required to be provided to it by any other Party under this Agreement.

(b) The Party conducting an audit pursuant to this Section 6.4(a) (the “Auditing Party”) may adopt reasonable procedures and guidelines for conducting audits and the selection of audit representatives under this Section 6.4. The Auditing Party shall have the right to make copies of any records at its expense, subject to any restrictions imposed by applicable laws and to any confidentiality provisions set forth in the Separation Agreement, which are incorporated by reference herein. The Party being audited shall provide the Auditing Party’s representatives with reasonable access during normal business hours to its operations, computer systems and paper and electronic files, and provide workspace to its representatives. After any audit is completed, the Party being audited shall have the right to review a draft of the audit findings and to comment on those findings in writing within thirty business days after receiving such draft.

(c) The Auditing Party’s audit rights under this Section 6.4 shall include the right to audit, or participate in an audit facilitated by the Party being audited, of any Subsidiaries and Affiliates of the Party being audited and to require the other Party to request any benefit providers and third parties with whom the Party being audited has a relationship, or agents of such Party, to agree to such an audit to the extent any such Persons are affected by or addressed in this Agreement (collectively, the “Non-parties”). The Party being audited shall, upon written request from the Auditing Party, provide an individual (at the Auditing Party’s expense) to supervise any audit of a Non-party. The Auditing Party shall be responsible for supplying, at the Auditing Party’s expense, additional personnel sufficient to complete the audit in a reasonably timely manner. The responsibility of the Party being audited shall be limited to providing, at the Auditing Party’s expense, a single individual at each audited site for purposes of facilitating the audit.

6.5 Fiduciary Matters. It is acknowledged that actions required to be taken pursuant to this Agreement may be subject to fiduciary duties or standards of conduct under ERISA or other applicable law, and no Party shall be deemed to be in violation of this Agreement if it fails to comply with any provisions hereof based upon its good faith determination that to do so would violate such a fiduciary duty or standard. Each Party shall be responsible for taking such actions as are deemed necessary and appropriate to comply with its own fiduciary responsibilities and shall fully release and indemnify the other Party for any Liabilities caused by the failure to satisfy any such responsibility.

6.6 Consent of Third Parties. If any provision of this Agreement is dependent on the consent of any third party (such as a vendor) and such consent is withheld, the Parties hereto shall use commercially reasonable efforts to implement the applicable provisions of this Agreement to the full extent practicable. If any provision of this Agreement cannot be implemented due to the failure of such third party to consent, the Parties hereto shall negotiate in good faith to implement the provision in a mutually satisfactory manner. The phrase “commercially reasonable efforts” as used herein shall not be construed to require any Party to incur any non-routine or unreasonable expense or Liability or to waive any right.

### ARTICLE VII MISCELLANEOUS

7.1 Effect If Effective Time Does Not Occur. If the Separation Agreement is terminated prior to the Distribution Date, then this Agreement shall terminate and all actions and events that are, under this Agreement, to be taken or occur effective immediately prior to or as of the Close of the Distribution Date, or Immediately after the Distribution Date, or otherwise in connection with the Separation Transactions, shall not be taken or occur except to the extent specifically agreed by the Parties.

7.2 Relationship of Parties. Nothing in this Agreement shall be deemed or construed by the Parties or any third party as creating the relationship of principal and agent, partnership or joint venture between the Parties, it being understood and agreed that no provision contained herein, and no act of the Parties, shall be deemed to create any relationship between the Parties other than the relationship set forth herein.

7.3 Affiliates. Each of IAC, TM, Interval, HSN and Tree shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth in this Agreement to be performed by another IAC Entity, TM Entity, Interval Entity, HSN Entity or Tree Entity, respectively.

7.4 Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be deemed given to a Party when (a) delivered to the appropriate address by hand or by nationally recognized overnight courier service (costs prepaid); (b) sent by facsimile with confirmation of transmission by the transmitting equipment; or (c) received or rejected by the addressee, if sent by certified mail, return receipt requested, in each case to the following addresses and facsimile numbers and marked to the attention of the person (by name or title) designated below (or to such other address, facsimile number or person as a Party may designate by notice to the other Parties):

(a) if to IAC:

IAC/InterActiveCorp  
555 West 18<sup>th</sup> Street  
New York, NY 10011  
Attention: General Counsel  
Facsimile No.: (212) 314-7379

(b) if to TM:

Ticketmaster  
8800 West Sunset Blvd  
West Hollywood, CA 90069  
Attention: General Counsel

(c) if to Interval:

Interval Leisure Group, Inc.  
6262 Sunset Drive  
Miami, FL 33143  
Attention: General Counsel  
Facsimile No.: [ ]

(d) if to HSN:

HSN, Inc.  
1 HSN Drive  
St. Petersburg, FL 33729  
Attention: General Counsel  
Facsimile No.: [ ]

(e) if to Tree:

Tree.com, Inc.  
11115 Rushmore Drive  
Charlotte, NC 28277  
Attention: General Counsel  
Facsimile No.: [ ]

7.5 Abandonment. IAC may in its sole discretion abandon one or more of the Distributions (as defined in the Separation Agreement) prior to the Distribution Date, and, by notice to the other SpinCos, shall have the right to terminate this Agreement to the extent of the rights and obligations provided between the SpinCo(s) the Distribution of which shall have been abandoned, on the one hand, and the other SpinCos and IAC, on the other hand. In the event that one or more of the Distributions (as defined in the Separation Agreement) shall not be effected on the Distribution Date, (a) any provisions contained in this Agreement regarding the rights or obligations of a SpinCo the Distribution of which shall have been abandoned shall have no effect, (b) such SpinCo shall continue to be treated as a member of the IAC Group (as defined in the Separation Agreement) and (c) such SpinCo's SpinCo Employees and Former SpinCo Employees shall be treated as IAC Employees and Former IAC Employees, respectively, for purposes of this Agreement.

7.6 Incorporation of Separation Agreement Provisions. The following provisions of the Separation Agreement are hereby incorporated herein by reference, and unless otherwise expressly specified herein, such provisions shall apply as if fully set forth herein mutatis mutandis (references in this Section 7.6 to an "Article" or "Section" shall mean Articles or Sections of the Separation Agreement, and references in the material incorporated herein by reference shall be references to the Separation Agreement): Article VI (relating to Mutual Releases; Indemnification); Article VIII (relating to Exchange of Information; Confidentiality); Article IX (relating to Dispute Resolution); Article X (relating to Further Assurances); Article XII (relating to Sole Discretion of IAC; Termination) and Article XIV (relating to Miscellaneous).

IN WITNESS WHEREOF, the Parties have caused this Employee Matters Agreement to be duly executed as of the day and year first above written.

IAC/INTERACTIVECORP

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

Name: Gregory R. Blatt  
Title: Executive Vice President

TICKETMASTER

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

Name:  
Title:

INTERVAL LEISURE GROUP, INC.

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

Name:  
Title:

HSN, INC.

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

Name:  
Title:

TREE.COM, INC.

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

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT ("Agreement") is entered into by and between Bob Harris ("Executive") and LendingTree, LLC, a Delaware limited liability company (the "Company"), and is effective as of June 30th, 2008 (the "Effective Date").

WHEREAS, the Company desires to establish its right to the services of Executive, in the capacity described below, on the terms and conditions hereinafter set forth, and Executive is willing to accept such employment on such terms and conditions.

NOW, THEREFORE, in consideration of the mutual agreements hereinafter set forth, Executive and the Company have agreed and do hereby agree as follows:

1. EMPLOYMENT. During the Term (as defined below), the Company shall employ Executive, and Executive shall be employed, as President, LendingTree Exchange of the Company. During Executive's employment with the Company, Executive shall do and perform all services and acts necessary or advisable to fulfill the duties and responsibilities as are commensurate and consistent with Executive's position and shall render such services on the terms set forth herein. During Executive's employment with the Company, Executive shall report directly to the Chief Executive Officer of the Company (hereinafter referred to as the "Reporting Officer"). Executive shall have such powers and duties with respect to LendingTree as may reasonably be assigned to Executive by the Reporting Officer, to the extent consistent with Executive's position. Executive agrees to devote all of Executive's working time, attention and efforts to LendingTree and to perform the duties of Executive's position in accordance with Company policies applicable to all employees of the Company and its subsidiaries and/or affiliates, as well as LendingTree policies (or the policies of such other businesses for which Executive has direct or indirect responsibility under this Agreement) as in effect from time to time. Executive's principal place of employment shall be the principal offices of LendingTree, located in Charlotte, North Carolina; provided, however, that travel to the Company's other offices in Jacksonville or Irvine may occasionally be required. Executive acknowledges that the Company may, in its sole discretion from time to time, change the Executive's responsibilities or his or her direct / indirect reports without any effect hereunder.

2. TERM. The term of this Agreement, which shall commence on the Effective Date, shall continue until and including June 30, 2011 (the "Term") unless terminated earlier as set forth in the Standard Terms and Conditions; provided, that certain provisions herein may specify a greater period of effectiveness.

3. COMPENSATION.

(a) BASE SALARY. During the period that Executive is employed with the Company hereunder, the Company shall pay Executive an annual base salary of \$325,000 (the "Base Salary"), payable in equal biweekly installments (or, if different, in accordance with the Company's payroll practice as in effect from time to time), or such higher salary as shall be agreed to in writing by Executive and the Company from time to time. For all purposes under

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this Agreement, the term "Base Salary" shall refer to the Base Salary as in effect from time to time.

(b) EQUITY INCENTIVES. During the period that Executive is employed with the Company hereunder, Executive shall be eligible to receive a discretionary equity incentives, including but not limited to restricted stock unit awards and/or stock options, which incentives shall be granted to Executive at the time the Company normally grants such incentives generally and otherwise in accordance with applicable policies, practices, terms, and conditions (including but not limited to vesting requirements), and provided further, that Executive is employed by the Company on the date such incentives are awarded.

(c) DISCRETIONARY BONUS. During the period that Executive is employed with the Company hereunder, Executive shall be eligible to receive a discretionary annual bonus in an amount determined by the Reporting Officer, which bonus shall be payable to Executive at the time the Company pays year-end bonuses generally and otherwise in accordance with applicable policies and practices, provided, that Executive is employed by Company on the date such bonuses are paid.

(d) BENEFITS. From the Effective Date through the date of termination of Executive's employment with the Company for any reason, Executive shall be entitled to participate in any welfare, health and life insurance and pension benefit programs as may be adopted from time to time by the Company on the same basis as that provided to similarly situated employees of the Company. Without limiting the generality of the foregoing, Executive shall be entitled to the following benefits:

(i) Reimbursement for Business Expenses. During the period that Executive is employed with the Company hereunder, the Company shall reimburse Executive for all reasonable, necessary and documented expenses incurred by Executive in performing Executive's duties for the Company, on the same basis as similarly situated employees and in accordance with applicable policies as in effect from time to time.

(ii) Vacation and other Paid Time Off. During the period that Executive is employed with the Company hereunder, Executive shall be entitled to paid vacation and other paid time off each year, in accordance with applicable plans, policies, programs and practices applicable to similarly situated employees generally.

4. NOTICES. All notices and other communications under this Agreement shall be in writing and shall be given by first-class mail, certified or registered with return receipt requested, or by hand delivery, or by overnight delivery by a nationally recognized carrier, in each case to the applicable address set forth below, and any such notice is deemed effectively given when received by the recipient (of if receipt is refused by the recipient, when so refused):

If to the Company:	LendingTree, LLC 11115 Rushmore Drive Charlotte, NC 28277 Attention: Senior Vice President, Human Resources
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If to Executive:

At the most recent address for Executive on file at the Company.

Either party may change such party's address for notices by notice duly given pursuant hereto.

5. **GOVERNING LAW; JURISDICTION.** This Agreement and the legal relations thus created between the parties hereto (including, without limitation, any dispute arising out of or related to this Agreement) shall be governed by and construed under and in accordance with the internal laws of the State of North Carolina without reference to its principles of conflicts of laws. Any such dispute will be heard exclusively and determined before an appropriate federal court located in the State of North Carolina in the Western District, or, if not maintainable therein, then in an appropriate state court located in Mecklenburg County, North Carolina, and each party hereto submits itself and its property to the exclusive jurisdiction of the foregoing courts with respect to such disputes. Each party hereto (i) agrees that service of process may be made by mailing a copy of any relevant document to the address of the party set forth above, (ii) waives to the fullest extent permitted by law any objection which it may now or hereafter have to the courts referred to above on the grounds of inconvenient forum or otherwise as regards any dispute between the parties hereto arising out of or related to this Agreement, (iii) waives to the fullest extent permitted by law any objection which it may now or hereafter have to the laying of venue in the courts referred to above as regards any dispute between the parties hereto arising out of or related to this Agreement and (iv) agrees that a judgment or order of any court referred to above in connection with any dispute between the parties hereto arising out of or related to this Agreement is conclusive and binding on it and may be enforced against it in the courts of any other jurisdiction.

6. **COUNTERPARTS.** This Agreement may be executed in several counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument.

7. **STANDARD TERMS AND CONDITIONS.** Executive expressly understands and acknowledges that the Executive Standard Terms and Conditions attached hereto are incorporated herein by reference, deemed a part of this Agreement and are binding and enforceable provisions of this Agreement. References to "this Agreement" or the use of the term "hereof" shall refer to this Agreement and the Executive Standard Terms and Conditions attached hereto, taken as a whole.

8. **SECTION 409A OF THE INTERNAL REVENUE CODE.** This Agreement is not intended to constitute a "nonqualified deferred compensation plan" within the meaning of Section 409A of the Internal Revenue Code of 1986, as amended, and the rules and regulations issued thereunder ("Section 409A"). Notwithstanding the foregoing, if this Agreement or any benefit paid to Executive hereunder is subject to Section 409A and if the Executive is a "Specified Employee" (as defined under Section 409A) as of the date of Executive's termination of employment hereunder, then the payment of benefits, if any, scheduled to be paid by the Company to Executive hereunder during the first six (6) month period beginning on the date of a termination of employment hereunder shall be delayed during such six (6) month period and shall commence immediately following the end of such six (6) month period (and, if applicable, the

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period in which such payments were scheduled to be made if not for such delay shall be extended accordingly). In no event shall the Company be required to pay Executive any "gross-up" or other payment with respect to any taxes or penalties imposed under Section 409A with respect to any benefit paid to Executive hereunder.

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed and delivered by its duly authorized officer and Executive has executed and delivered this Agreement as of June 30<sup>th</sup>, 2008.

LendingTree, LLC

/s/ Claudette Hampton

By: Claudette Hampton

Title: Senior Vice President, Human Resources

/s/ Bob Harris

Bob Harris

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**EXECUTIVE STANDARD TERMS AND CONDITIONS**

**1A. TERMINATION OF EXECUTIVE'S EMPLOYMENT.**

(a) **DEATH.** In the event Executive's employment hereunder is terminated by reason of Executive's death, the Company shall pay Executive's designated beneficiary or beneficiaries, within thirty (30) days of Executive's death in a lump sum in cash, (i) Executive's Base Salary through the end of the month in which death occurs and (ii) any Other Accrued Obligations (as defined in Section 1A(e) below).

(b) **DISABILITY.** If, as a result of Executive's incapacity due to physical or mental illness ("Disability"), Executive shall have been absent from the full-time performance of Executive's duties with the Company for a period of four (4) consecutive months and, within thirty (30) days after written notice is provided to Executive by the Company (in accordance with Section 4 of the Employment Agreement), Executive shall not have returned to the full-time performance of Executive's duties, Executive's employment under this Agreement may be terminated by the Company for Disability. During any period prior to such termination during which Executive is absent from the full-time performance of Executive's duties with the Company due to Disability, the

Company shall continue to pay Executive's Base Salary at the rate in effect at the commencement of such period of Disability, offset by any amounts payable to Executive under any disability insurance plan or policy provided by the Company. Upon termination of Executive's employment due to Disability, the Company shall pay Executive within thirty (30) days of such termination (i) Executive's Base Salary through the end of the month in which termination occurs in a lump sum in cash, offset by any amounts payable to Executive under any disability insurance plan or policy provided by the Company; and (ii) any Other Accrued Obligations (as defined in paragraph 1(e) below).

(c) TERMINATION FOR CAUSE. Upon the termination of Executive's employment by the Company for Cause (as defined below), the Company shall have no further obligation hereunder, except for the payment of any Other Accrued Obligations (as defined in paragraph 1(e) below). As used herein, "Cause" shall mean: (i) the Executive's plea of guilty or nolo contendere to, or conviction for, the commission of (A) a felony offense, or (B) a misdemeanor offense involving any breach of trust or fiduciary duty by Executive; provided, however, that after indictment, the Company may suspend Executive from the rendition of services, but without limiting or modifying in any other way the Company's obligations under this Agreement; (ii) a material breach by Executive of a fiduciary duty owed to the Company; (iii) a material breach by Executive of any of the covenants made by Executive in Section 2A hereof; (iv) the willful or gross neglect by Executive of the material duties required by this Agreement; or (v) a material violation by Executive of any Company policy pertaining to ethics, wrongdoing or conflicts of interest.

(d) TERMINATION OR BREACH BY THE COMPANY OTHER THAN FOR DEATH, DISABILITY OR CAUSE OR RESIGNATION BY EXECUTIVE UPON A CHANGE IN CONTROL. If (i) Executive's employment hereunder is terminated by the Company or the Company commits a material breach of this Agreement prior to the expiration of the Term for

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any reason other than Executive's death or Disability or for Cause, or (ii) Executive resigns within ninety (90) days following the consummation of any Change in Control of the Company, then the Company shall pay Executive the following:

(i) Within thirty (30) days following such termination, breach, or resignation, an amount equal to all Other Accrued Obligations (as defined herein); and

(ii) An amount equal to one (1) year's Base Salary, payable in equal installments on the Company's regularly scheduled paydays over the one (1) year period following the date of such termination, breach, or resignation (the "Severance Period").

If Executive obtains other employment or is otherwise compensated for services provided during this Severance Period, the Company's obligation to make future payments to Executive under these subparagraph (d)(ii) and shall be offset against any compensation earned by Employee as a result of employment with or services provided to a third party. Executive agrees to inform the Company promptly of his or her employment status and any amounts so earned during the Severance Period. Executive's right to the payments under these subparagraphs (d)(ii) shall be subject to Executive's execution and non-revocation of a general release of the Company and its affiliates, in a form substantially similar to that used for similarly situated executives of the Company and its affiliates, and Executive's compliance with the restrictive covenants set forth in Section 2A of these Standard Terms and Conditions. Executive acknowledges and agrees that the payments described in this Section 1A(d) constitutes good and valuable consideration for such release.

For purposes of this Agreement, a "Change in Control" means

(i) the acquisition, by any means, by any individual entity or group, within the meaning of Section 13 (d)(3) or 14 (d)(2) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), other than IAC/InterActiveCorp, Barry Diller, Liberty Media Corporation, and their respective affiliates (a "Person"), directly or indirectly, of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of equity securities of LendingTree, LLC representing more than 50% of the voting power of the then outstanding equity securities of LendingTree, LLC entitled to vote generally in the election of directors or managing members (as applicable) of the entity (the "Outstanding Voting Securities"); provided, however, that for purposes of this subsection (i), the following acquisitions shall not constitute a Change in Control: (1) any acquisition by any employee benefit plan (or trust related to such employee benefit plan) sponsored or maintained by LendingTree, LLC or any corporation controlled by LendingTree, LLC or (2) any acquisition by any Person pursuant to a transaction which complies with clauses (A) and (B) of subsection (ii) of this definition; or

(ii) the consummation of a reorganization, merger or consolidation or sale or other disposition, directly or indirectly of all or substantially all of the assets of LendingTree, LLC or the purchase of assets or stock or another entity (a "Business Combination") in each case, unless immediately following such Business Combination, (A) all or substantially all of the individuals and entities who were the beneficial owners

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of the Outstanding Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than 50% of the then outstanding combined voting power of the then outstanding voting securities entitled to vote generally in the election of directors, managing members or other required persons (as applicable) of the entity resulting from such Business Combination (including, without limitation, an entity which as a result of such transaction owns LendingTree, LLC or all or substantially all of the assets of LendingTree, LLC either directly or through one or more subsidiaries) in substantially the same proportion as their ownership immediately prior to such Business Combination of the outstanding voting securities, and (B) no person (excluding IACInteractiveCorp, Barry Diller, Liberty Media Corporation and their respective affiliates, any employee benefit plan (or related trust) of LendingTree, LLC or such entity resulting from such Business Combination) beneficially owns, directly or indirectly, more than a majority of the combined voting power of the then Outstanding Voting Securities of such entity except to the extent that such ownership of LendingTree, LLC existed prior to the Business Combination; or

(iii) the approval by the members, stockholders or other required persons (as applicable) of LendingTree, LLC of a complete liquidation or dissolution of LendingTree, LLC.

(e) OTHER ACCRUED OBLIGATIONS. As used in this Agreement, "Other Accrued Obligations" shall mean the sum of (i) any portion of Executive's accrued but unpaid Base Salary or Bonus through the date of death or termination of employment for any reason, as the case may be; (ii) any compensation previously earned but deferred by Executive (together with any interest or earnings thereon) that has not yet been paid and that is not otherwise

to be paid at a later date pursuant to the executive deferred compensation plan of the Company, if any, and (iii) any reimbursements that Executive is entitled to receive under Section 3(d) of the Agreement.

2A. CONFIDENTIAL INFORMATION; NON-COMPETITION; NON-SOLICITATION; AND PROPRIETARY RIGHTS.

(f) CONFIDENTIALITY. Executive acknowledges that, while employed by the Company, Executive will occupy a position of trust and confidence. The Company, its subsidiaries and/or affiliates shall provide Executive with "Confidential Information" as referred to below. Executive shall not, except as may be required to perform Executive's duties hereunder or as required by applicable law, without limitation in time, communicate, divulge, disseminate, disclose to others or otherwise use, whether directly or indirectly, any Confidential Information regarding the Company and/or any of its subsidiaries and/or affiliates.

"Confidential Information" shall mean information about the Company or any of its subsidiaries or affiliates, and their respective businesses, employees, consultants, contractors, clients and customers that is not disclosed by the Company or any of its subsidiaries or affiliates for financial reporting purposes or otherwise generally made available to the public (other than by Executive's breach of the terms hereof) and that was learned or developed by Executive in the course of employment by the Company or any of its subsidiaries or affiliates, including

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(without limitation) any proprietary knowledge, trade secrets, data, formulae, information and client and customer lists and all papers, resumes, and records (including computer records) of the documents containing such Confidential Information. Executive acknowledges that such Confidential Information is specialized, unique in nature and of great value to the Company and its subsidiaries or affiliates, and that such information gives the Company and its subsidiaries or affiliates a competitive advantage. Executive agrees to deliver or return to the Company, at the Company's request at any time or upon termination or expiration of Executive's employment or as soon thereafter as possible, all documents, computer tapes and disks, records, lists, data, drawings, prints, notes and written information (and all copies thereof) furnished by the Company and its subsidiaries or affiliates or prepared by Executive in the course of Executive's employment by the Company and its subsidiaries or affiliates. As used in this Agreement, "subsidiaries" and "affiliates" shall mean any company controlled by, controlling or under common control with the Company. For purposes of this Agreement, "Confidential Information" shall not include any information that is now or hereafter becomes known to the public or otherwise is in the public domain other than through Executive's fault, breach, disclosure, or other act of Executive.

(g) NON-COMPETITION. In consideration of this Agreement, and other good and valuable consideration provided hereunder, the receipt and sufficiency of which are hereby acknowledged by Executive, Executive hereby agrees and covenants that, during Executive's employment hereunder and for a period of twelve (12) months thereafter (the "Restricted Period"), Executive shall not, without the prior written consent of the Company, directly or indirectly, engage in or become associated with a Competitive Activity.

For purposes of this Section 2A(b), (i) a "Competitive Activity" means any business or other endeavor involving Similar Products if such business or endeavor is in a country (including the United States) in which the Company (or any of its businesses) provides or planned to provide during Executive's employment hereunder such Similar Products; (ii) "Similar Products" means any products or services that are the same (or substantially the same) as any of the (A) types of products or services that the online loan origination, online loan brokerage, or online real estate brokerage businesses of LendingTree and/or the Company or (B) significant types of products or services that any other business for which Executive has direct or indirect responsibility hereunder, in each case, provides, has provided or planned to provide during Executive's employment hereunder; and (iii) Executive shall be considered to have become "associated with a Competitive Activity" if Executive becomes directly or indirectly involved as an owner, principal, employee, officer, director, independent contractor, representative, stockholder, financial backer, agent, partner, member, advisor, lender, consultant or in any other individual or representative capacity with any individual, partnership, corporation or other organization that is engaged in a Competitive Activity.

Notwithstanding the foregoing, Executive may make and retain investments during the Restricted Period, for investment purposes only, in less than five percent (5%) of the outstanding capital stock of any publicly-traded corporation engaged in a Competitive Activity if the stock of such corporation is either listed on a national stock exchange or on the NASDAQ National Market System if Executive is not otherwise affiliated with such corporation. Executive acknowledges that Executive's covenants under this Section 2A(b) are a material inducement to

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the Company's entering into this Agreement.

(h) NON-SOLICITATION OF EMPLOYEES. Executive recognizes that he or she will possess Confidential Information about other employees, consultants and contractors of the Company and its subsidiaries or affiliates relating to their education, experience, skills, abilities, compensation and benefits, and inter-personal relationships with suppliers to and customers of the Company and its subsidiaries or affiliates. Executive recognizes that the information he or she will possess about these other employees, consultants and contractors is not generally known, is of substantial value to the Company and its subsidiaries or affiliates in developing their respective businesses and in securing and retaining customers, and will be acquired by Executive because of Executive's business position with the Company. Executive agrees that, during Executive's employment hereunder and for a period of twelve (12) months thereafter, (i) Executive will not, directly or indirectly, hire or solicit or recruit any person then employed by the Company and/or any of its subsidiaries and/or affiliates with whom Executive has had direct contact during his or her employment hereunder, in all cases, for the purpose of being employed by Executive or by any business, individual, partnership, firm, corporation or other entity on whose behalf Executive is acting as an agent, representative or employee; and (ii) Executive will not convey any such Confidential Information or trade secrets about employees of the Company or any of its subsidiaries or affiliates to any other person except within the scope of Executive's duties hereunder. Notwithstanding the foregoing, the restrictions set forth immediately above shall, in the case of employees with whom Executive had a direct working relationship prior to his or her employment with the Company, its subsidiaries and/or affiliates, (i) upon a termination of Executive's employment by the Company for any reason other than for Cause, shall apply for a period of nine (9) months following such termination, or (ii) if Executive terminates his or her employment hereunder, apply for a period of twelve (12) months following such termination.

(i) NON-SOLICITATION OF CUSTOMERS. During Executive's employment hereunder and for a period of twelve (12) months thereafter, Executive shall not solicit any Customers of LendingTree or encourage (regardless of who initiates the contact) any such Customers to use the facilities or

services of any competitor of LendingTree. For the purposes of this subsection, "Customers" means any persons or entities that purchased products or services from the Company within twelve (12) calendar months of the termination of Executive's employment.

(j) PROPRIETARY RIGHTS; ASSIGNMENT. All Employee Developments (defined below) shall be considered works made for hire by Executive for the Company or, as applicable, its subsidiaries or affiliates, and Executive agrees that all rights of any kind in any Employee Developments belong exclusively to the Company. In order to permit the Company to exploit such Employee Developments, Executive shall promptly and fully report all such Employee Developments to the Company. Except in furtherance of his or her obligations as an employee of the Company, Executive shall not use or reproduce any portion of any record associated with any Employee Development without prior written consent of the Company or, as applicable, its subsidiaries or affiliates. Executive agrees that in the event actions of Executive are required to ensure that such rights belong to the Company under applicable laws, Executive will cooperate and take whatever such actions are reasonably requested by the Company, whether during or after the Term, and without the need for separate or additional compensation.

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"Employee Developments" means any idea, know-how, discovery, invention, design, method, technique, improvement, enhancement, development, computer program, machine, algorithm or other work of authorship, whether developed, conceived or reduced to practice during or following the period of employment, that (i) concerns or relates to the actual or anticipated business, research or development activities, or operations of LendingTree (or any other Company business for which Executive has direct or indirect responsibility during his or her employment hereunder), or (ii) results from or is suggested by any undertaking assigned to Executive or work performed by Executive for or on behalf of the Company or any of its subsidiaries or affiliates, whether created alone or with others, during or after working hours, or (iii) uses, incorporates or is based on Company equipment, supplies, facilities, trade secrets or inventions of any form or type. All Confidential Information and all Employee Developments are and shall remain the sole property of the Company or any of its subsidiaries or affiliates. Executive shall acquire no proprietary interest in any Confidential Information or Employee Developments developed or acquired during the Term. To the extent Executive may, by operation of law or otherwise, acquire any right, title or interest in or to any Confidential Information or Employee Development, Executive hereby assigns and covenants to assign to the Company all such proprietary rights without the need for a separate writing or additional compensation. Executive shall, both during and after the Term, upon the Company's request, promptly execute, acknowledge, and deliver to the Company all such assignments, confirmations of assignment, certificates, and instruments, and shall promptly perform such other acts, as the Company may from time to time in its discretion deem necessary or desirable to evidence, establish, maintain, perfect, enforce or defend the Company's rights in Confidential Information and Employee Developments.

(k) COMPLIANCE WITH POLICIES AND PROCEDURES. During the period that Executive is employed with the Company hereunder, Executive shall adhere to the policies and standards of professionalism set forth in the Company's Policies and Procedures applicable to all employees of the Company and its subsidiaries and/or affiliates, as well as LendingTree policies (or the policies of such other businesses for which Executive has direct or indirect responsibility under this Agreement) as they may exist from time to time.

(l) SURVIVAL OF PROVISIONS. The obligations contained in this Section 2A shall, to the extent provided in this Section 2A, survive the termination or expiration of Executive's employment with the Company and, as applicable, shall be fully enforceable thereafter in accordance with the terms of this Agreement. If it is determined by a court of competent jurisdiction that any restriction in this Section 2A is excessive in duration or scope or is unreasonable or unenforceable under applicable law, it is the intention of the parties that such restriction may be modified or amended by the court to render it enforceable to the maximum extent permitted by applicable law.

3A. TERMINATION OF PRIOR AGREEMENTS. This Agreement constitutes the entire agreement between the parties and, as of the Effective Date, terminates and supersedes any and all prior agreements and understandings (whether written or oral) between the parties with respect to the subject matter of this Agreement. Executive acknowledges and agrees that neither the Company nor anyone acting on its behalf has made, and is not making, and in executing this Agreement, Executive has not relied upon, any representations, promises or inducements except

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to the extent the same is expressly set forth in this Agreement. Executive hereby represents and warrants that by entering into this Agreement, Executive will not rescind or otherwise breach an employment agreement or other agreement with Executive's current employer prior to the natural expiration date of such agreement. Notwithstanding the foregoing, nothing in this Agreement shall alter the Executive's rights to (i) any grant of RSUs or other equity interests, or the vesting rights or conditions of termination and/or expiration thereof, granted in any prior agreement (including, without limitation, the rights granted to Executive under that certain Restricted Shares Grant and Shareholders' Agreement dated as of May 5, 2003, as amended from time to time, and the rights granted under Section 1(d) to the Standard Terms and Conditions attached to the Employment Agreement dated May 14, 2007), or (ii) the payment of any cash bonus, whether guaranteed or discretionary, attributable to the Company's 2007 fiscal year and awarded in any prior agreement.

4A. ASSIGNMENT; SUCCESSORS. Without limiting the provisions of Section 2A(d) of this Agreement, the parties agree that this Agreement is personal in its nature and that none of the parties hereto shall, without the consent of the others, assign or transfer this Agreement or any rights or obligations hereunder; provided, that the Company may assign this Agreement to, or allow any of its obligations to be fulfilled by, or take actions through, any affiliate of the Company and, in the event of the merger, consolidation, transfer, or sale of all or substantially all of the assets of the Company (a "Transaction") with or to any other individual or entity, this Agreement shall, subject to the provisions hereof, be binding upon and inure to the benefit of such successor and such successor shall discharge and perform all the promises, covenants, duties, and obligations of the Company hereunder, and in the event of any such assignment or Transaction, all references herein to the "Company" shall refer to the Company's assignee or successor hereunder. Further, it is the intent of the parties that this Agreement shall survive the spin-off of LendingTree, LLC and shall be automatically assigned to, assumed by, and binding upon the new parent company of LendingTree (referred to herein as "Tree.com") following the spin-off. Following the spin-off, all references herein to "Company" or "LendingTree" shall thereafter refer to Tree.com.

5A. WITHHOLDING. The Company shall make such deductions and withhold such amounts from each payment and benefit made or provided to Executive hereunder, as may be required from time to time by applicable law, governmental regulation or order.

6A. HEADING REFERENCES. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose. References to "this Agreement" or the use of the term "hereof" shall refer to these Standard Terms and Conditions and the Employment Agreement attached hereto, taken as a whole.

7A. REMEDIES FOR BREACH. Executive expressly agrees and understands that Executive will notify the Company in writing of any alleged breach of this Agreement by the Company, and the Company will have thirty (30) days from receipt of Executive's notice to cure any such breach. Executive expressly agrees and understands that in the event of any termination of Executive's employment by the Company during the Term, the Company's contractual

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obligations to Executive shall be fulfilled through compliance with its obligations under Section 1A of the Standard Terms and Conditions.

Executive expressly agrees and understands that the remedy at law for any breach by Executive of Section 2A of the Standard Terms and Conditions will be inadequate and that damages flowing from such breach are not usually susceptible to being measured in monetary terms. Accordingly, it is acknowledged that, upon Executive's violation of any provision of such Section 2A, the Company shall be entitled to obtain from any court of competent jurisdiction immediate injunctive relief and obtain a temporary order restraining any threatened or further breach as well as an equitable accounting of all profits or benefits arising out of such violation. Nothing shall be deemed to limit the Company's remedies at law or in equity for any breach by Executive of any of the provisions of this Agreement, including Section 2A, which may be pursued by or available to the Company.

8A. WAIVER; MODIFICATION. Failure to insist upon strict compliance with any of the terms, covenants, or conditions hereof shall not be deemed a waiver of such term, covenant, or condition, nor shall any waiver or relinquishment of, or failure to insist upon strict compliance with, any right or power hereunder at any one or more times be deemed a waiver or relinquishment of such right or power at any other time or times. This Agreement shall not be modified in any respect except by a writing executed by each party hereto.

9A. SEVERABILITY. In the event that a court of competent jurisdiction determines that any portion of this Agreement is in violation of any law or public policy, only the portions of this Agreement that violate such law or public policy shall be stricken. All portions of this Agreement that do not violate any statute or public policy shall continue in full force and effect. Further, any court order striking any portion of this Agreement shall modify the stricken terms as narrowly as possible to give as much effect as possible to the intentions of the parties under this Agreement.

10A. INDEMNIFICATION. The Company shall indemnify and hold Executive harmless for acts and omissions in Executive's capacity as an officer, director or employee of the Company to the maximum extent permitted under applicable law; provided, however, that neither the Company, nor any of its subsidiaries or affiliates shall indemnify Executive for any losses incurred by Executive as a result of acts described in Section 1A(c) of this Standard Terms and Conditions.

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EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT ("Agreement"), dated as of January 7, 2008 (the "Effective Date"), is entered into by and between Douglas R. Lebda ("Employee") and IAC/InterActiveCorp ("IAC" or the "Company"). All capitalized terms used herein without definition shall have the meaning assigned to them in the Prior Agreement (as defined below).

WHEREAS, Employee is currently serving as President and Chief Operating Officer of the Company;

WHEREAS, the Company has announced a plan to separate into five publicly traded companies (the "Spin-Offs"), one of which is intended to comprise the businesses operated within the Company's LendingTree and Real Estate financial reporting segments, which currently include LendingTree, RealEstate.com, Domania, GetSmart, Home Loan Center and iNest (collectively, "LendingTree");

WHEREAS, the Company wishes, in anticipation of the Spin-Off of LendingTree (the "LT Spin-Off"), to appoint Employee to the position of Chairman and Chief Executive Officer of LendingTree, in addition to his continuing in his current position as President and Chief Operating Officer of the Company for a transitional period, and Employee is willing to commit himself to continue to serve the Company and its subsidiaries and affiliates, on the terms and conditions herein provided;

WHEREAS, Employee, the Company and LendingTree are parties to an Employment Agreement (the "Prior Agreement"), dated as of December 14, 2005, which generally became effective as of the effective date (as that term is defined in the Prior Agreement), which the parties intend will be superseded hereby;

WHEREAS, in order to effect the foregoing, the Company and Employee wish to enter into an employment agreement on the terms and conditions set forth below;

NOW, THEREFORE, in consideration of the mutual agreements hereinafter set forth, Employee and the Company have agreed and do hereby agree as follows:

1A. EMPLOYMENT. The Company agrees to employ Employee as Chairman and Chief Executive Officer of LendingTree as of the Effective Date and Employee accepts and agrees to such employment; provided that it is intended that this position be held at the parent entity operating the LendingTree businesses upon closing of the LT Spin-Off (the "LT Parent"). During Employee's employment with the Company, Employee shall perform all services and acts necessary or advisable to fulfill the duties and responsibilities as are commensurate and consistent with Employee's position and shall render such services on the terms set forth herein. During Employee's employment with the Company prior to the LT Spin-Off, Employee shall report to the Chief Executive Officer of the Company and subsequent to the LT Spin-Off, Employee shall report to the Board of Directors of LT Parent (in each case, hereinafter referred to as the "Reporting Officer"). Employee shall have such powers and duties with respect to the

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Company as may reasonably be assigned to Employee by the Reporting Officer, to the extent consistent with Employee's position and status. Employee agrees to devote all of Employee's working time, attention and efforts to the Company and to perform the duties of Employee's position in accordance with the Company's policies as in effect from time to time. Notwithstanding the foregoing, Employee shall remain as President and Chief Operating Officer of the Company until the earlier of the LT Spin-Off or such date as is determined by the Chief Executive Officer of IAC.

Notwithstanding anything to the contrary above, Employee may serve as a corporate board member for Eastman Kodak and another entity previously identified to IAC (collectively, the "Current Boards") and such other organizations (not to exceed four (4) in the aggregate) as are approved in advance by the Reporting Officer, provided said service does not (a) interfere with Employee's ability to perform his duties for the Company as contemplated hereunder, and (b) compete with, or present an actual or apparent conflict of interest for, the Company or LendingTree, which shall be determined by the General Counsel of IAC in the case of IAC and the Board of Directors of LendingTree in the case of LendingTree, in each case, in his (or its) sole, good faith judgment. IAC acknowledges that as of the Effective Date, Employee is serving, or has agreed to serve, as a corporate board member on the Current Boards, and that IAC will only claim that clause (a) or (b) of the preceding sentence is implicated if there are changed circumstances after the Effective Date and prior to the LT Spin-Off; provided that the requirement for changed circumstances after the Effective Date shall not be a prerequisite for the Board of Directors of LT Parent to claim that circumstances meeting clause (a) or (b) of the preceding sentence have been met.

2A. TERM OF AGREEMENT. The term ("Term") of this Agreement shall commence on the Effective Date and shall continue through the fifth anniversary of the Effective Date, unless sooner terminated in accordance with the provisions of Section 1 of the Standard Terms and Conditions attached hereto; provided, that certain terms and conditions herein may specify a greater period of effectiveness. Employee and the Company will enter into good faith negotiations to extend the Term no later than six months prior to the end of the Term, provided, that Employee has provided written notice to the Company between eight and six months prior to the end of the Term which sets forth his interest in entering into such negotiations.

3A. COMPENSATION.

(a) BASE SALARY. During the Term, the Company shall pay Employee an annual base salary of \$750,000 (the "Base Salary"), payable in equal biweekly installments or in such other installments as may be in accordance with the Company's payroll practice as in effect from time to time. The Base Salary shall be reviewed by the Company, if requested by Employee in writing, no less frequently than annually in a manner consistent with similarly situated executives of the Company and may be increased but not decreased. For all purposes under this Agreement, the term "Base Salary" shall refer to Base Salary as in effect from time to time.

(b) DISCRETIONARY BONUS. During the Term, Employee shall be eligible to receive discretionary annual bonuses in a manner consistent with similarly situated executives of the Company.

(c) EQUITY COMPENSATION.

(i) Grant of LendingTree Equity Incentives. At the time of the LT Spin-Off (which shall be the grant, or transfer, date), Employee shall be granted the following equity awards, with the vesting of each of the awards dependent on the continued service of Employee through the vesting term:

(A) Restricted stock of the LT Parent ("LT Restricted Stock") in an amount equal to 2% of the fully diluted common equity of LT Parent immediately after the consummation of the LT Spin-Off (after giving effect to the grant of LT Restricted Stock and the LT Options (as defined below), but not taking into account any common units of LendingTree, LLC outstanding under the Shares Agreement immediately after the consummation of the LT Spin-Off (whether held by Employee or others)) (the "Diluted LT Common Shares"). The LT Restricted Stock will vest in equal annual installments on the first five anniversaries of the Effective Date; provided that no vesting date may occur prior to the closing of the LT Spin-Off. The LT Restricted Stock will be governed by a new LendingTree stock plan to be established by the LT Parent Board of Directors (or a committee thereof) (the "LT Stock Plan") and a related agreement. In the event of any conflict or ambiguity between this Agreement and the LT Stock Plan or agreement, this Agreement shall control. For purposes of clarity, Diluted LT Common Shares will include, without limitation, any shares in LT Parent that Employee receives in the LT Spin-Off in respect of his IAC shares (i) held as of the Effective Date which were received in exchange for 25% of his LendingTree management equity shares (ii) to be received in exchange for another 25% of his LendingTree management equity shares held as of the Effective Date.

(B) Four separate awards of stock options (the "LT Options"), each award giving Employee the right to acquire 2-1/2% of the Diluted LT Common Shares, with per share exercise prices for each award calculated as follows:

- (1) First Award - \$250,000,000 divided by number of Diluted LT Common Shares;
- (2) Second Award - \$300,000,000 divided by number of Diluted LT Common Shares;
- (3) Third Award - \$400,000,000 divided by number of Diluted LT Common Shares; and
- (4) Fourth Award - \$450,000,000 divided by number of Diluted LT Common Shares.

Notwithstanding the foregoing, if any calculation above results in a per share exercise price that is lower than the initial trading price of Parent Common Stock immediately following the LT Spin-Off (the "Initial LT Price"), such exercise price(s) shall be equal to the Initial LT Price and the per share exercise price of the Fourth Award shall be adjusted by reducing the \$450,000,000 in the calculation under (B)(4) above by \$1.00 for each

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dollar that the Initial LT Price multiplied by the Diluted LT Common Shares exceeds \$250,000,000. The LT Options will be governed by the LT Stock Plan and a related agreement and shall each vest in full on the fifth anniversary of the Effective Date. In the event of any conflict or ambiguity between this Agreement and the LT Stock Plan or agreement, this Agreement shall control.

(ii) The Shares. Section 3(c)(i) of the Prior Agreement shall remain in full force and effect, except that the shares of Exchange Stock shall vest in full and the Target Shares shall be exchanged for 300,000 shares of IAC Common Stock, and all other provisions in the Prior Agreement relating to the Exchange Stock and the Target Shares shall no longer be in effect (A) immediately prior to the LT Spin-Off, provided Employee remains employed by the Company at such time, (B) if earlier than (A), immediately prior to the Company's disposition (either through spin-off or other means) of the last of its Ticketing, HSN and Interval businesses, provided that all three of such businesses have been so disposed of (such third disposition, the "Threshold Disposition"), provided Employee remains employed by the Company at such time, (C) upon Employee's termination of employment in accordance with either Section 3A(e) of the Agreement or Section 1(g) of the Standard Terms and Conditions attached hereto, or (D) upon any Qualifying Termination (as defined in Section 1(d) of the Standard Terms and Conditions).

(iii) Treatment of IAC Equity Awards. All IAC restricted stock units held by Employee on the Effective Date shall vest, to the extent not previously vested, with Growth Shares granted in February 2007 vesting at the target level, (A) immediately prior to the closing of the LT Spin-Off, provided Employee remains employed by the Company at such time, (B) if earlier than (A), immediately prior to the closing of the Threshold Disposition, provided Employee remains employed by the Company at such time, (C) upon Employee's termination of employment in accordance with either Section 3A(e) of the Agreement or Section 1(g) of the Standard Terms and Conditions attached hereto, or (D) upon any Qualifying Termination.

(d) BENEFITS. During the Term, Employee shall be eligible to participate in any welfare, health, life insurance, pension benefit and incentive plans, programs, policies and practices as may be adopted from time to time by the Company on the same basis as that provided to similarly situated employees of the Company generally. Without limiting the generality of the foregoing, Employee shall be eligible for the following benefits:

(i) Reimbursement for Business Expenses. During the Term, the Company shall reimburse Employee for all reasonable and necessary expenses incurred by Employee in performing Employee's duties for the Company, on the same basis as similarly situated employees of the Company generally and in accordance with the Company's policies as in effect from time to time.

(ii) Vacation. During the Term, Employee shall be eligible for paid vacation in accordance with the plans, policies, programs and practices of the Company applicable to similarly situated employees of the Company generally. Any accrued vacation under the Company's plans, policies, programs and practices shall be rolled over and continue to be available to Employee upon his becoming subject to LendingTree's plans, policies, programs and practices regarding vacation.

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(iii) Payment of and/or Reimbursement for Certain Relocation Expenses. The Company shall pay on Executive's behalf (or reimburse Executive for) actual, reasonable and documented expenses relating to his relocation to Charlotte, North Carolina, if such occurs, up to an aggregate dollar amount of \$400,000 (including tax gross-ups), on the same basis as similarly situated employees and in accordance with Company policy (the "Relocation Expenses"). As required by Company policy and as a condition to the payment of and/or reimbursement the Relocation Expenses, Executive agrees to repay the Company for 100%, 75%, 50% and 25% of such expenses upon a termination of Executive's employment for Cause (as defined in Section 1(c) of the Standard Terms and Conditions) or if Executive voluntarily terminates his employment with the Company (except for Good Reason as defined in accordance with the provisions of Section 1(d) of the Standard Terms and Conditions or termination pursuant to Section 1(g) of the Standard Terms and Conditions) during months 0 through 4, 5 through 9, 10 through 14 and 15 through 18, respectively, of the Term.

(e) SALE OF LENDINGTREE. In the event that during the Term and prior to the LT Spin-Off, the Company sells a controlling interest in LendingTree (i.e., a majority of the outstanding voting power over or substantially all of the assets of the LendingTree businesses), Employee shall have the right to terminate his employment with the Company within thirty days of notice of such sale, and upon the later of such termination and the closing of such sale, the Company shall pay Employee an amount equal to 1% of the consideration received by the Company. The payment shall be in the same form as the consideration received by the Company; provided that the Company may, at its option, elect to pay Employee entirely in cash in respect of the 1% interest. If Employee exercises his termination right under this Section 3A(e), subject to Employee's execution and non-revocation of a general release of the Company and its affiliates substantially in the form attached hereto as Exhibit A and Employee's compliance with Sections 2(a) through 2(e), upon payment by the Company of the Accrued Obligations, payment to Employee of the 1% of the consideration described above in this section and the vesting of equity as provided in Sections 3A(c)(ii) and (iii), the Company shall have no further obligations to Employee hereunder.

(f) INVESTOR IN LENDINGTREE. In the event that during the Term and prior to the LT Spin-Off a third party makes a minority investment in Lending Tree, the Company shall provide notice to Employee of the intended investment along with the terms and conditions of such investment. Within ten (10) days of such notice, Employee may, by written notice to the Company, elect to co-invest in LendingTree for up to 5% of the Lending Tree equity (plus up to an additional 5% with the consent of the third-party investor) on the same economic terms as the other investor, and with other terms reasonable and customary for a minority investment of this nature. Notwithstanding the foregoing, if all or a portion of the consideration to be delivered by the third party for its investment in LendingTree is not in cash or marketable securities, whether it be unmarketable securities, other property, or contractual commitments, the Company shall value such consideration in good faith and adjust the purchase price for purposes of determining the amount the Employee will pay for his co-investment.

4A. NOTICES. All notices and other communications under this Agreement shall be in writing and shall be given by first-class mail, certified or registered with return receipt requested or hand delivery acknowledged in writing by the recipient personally, and shall be deemed to

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have been duly given three days after mailing or immediately upon duly acknowledged hand delivery, as applicable, to the respective persons named below:

If to the Company: IAC/InterActiveCorp  
555 West 18<sup>th</sup> Street  
New York, NY 10011

Attention: General Counsel

Or, if after the LT Spin-Off, then to the General Counsel of LT Parent.

If to Employee: At the most recent address on file at the Company.

Either party may change such party's address for notices by notice duly given pursuant hereto.

5A. GOVERNING LAW; JURISDICTION. This Agreement and the legal relations thus created between the parties hereto shall be governed by and construed under and in accordance with the laws of the State of Delaware without reference to the principles of conflicts of laws. Any and all disputes between the parties which may arise pursuant to this Agreement will be heard and determined solely before an appropriate federal court in the State of New York, or, if not maintainable therein, then in an appropriate New York state court. The parties acknowledge that such courts have jurisdiction to interpret and enforce the provisions of this Agreement, and the parties consent to, and waive any and all objections that they may have as to, personal jurisdiction and/or venue in such courts.

6A. COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument. Employee expressly understands and acknowledges that the Standard Terms and Conditions attached hereto are incorporated herein by reference, deemed a part of this Agreement and are binding and enforceable provisions of this Agreement. References to "this Agreement" or the use of the term "hereof" shall refer to this Agreement and the Standard Terms and Conditions attached hereto, taken as a whole.

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IN WITNESS WHEREOF, the Company has caused this Agreement to be executed and delivered by its duly authorized officer and Employee has executed and delivered this Agreement as of the date set forth above.

IAC/INTERACTIVECORP

By: /s/ Greg Blatt  
Name: Greg Blatt  
Title:

By: /s/ Douglas R. Lebda

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STANDARD TERMS AND CONDITIONS

1. TERMINATION OF EMPLOYEE'S EMPLOYMENT.

(a) DEATH. Upon termination of Employee's employment prior to the expiration of the Term by reason of Employee's death, the Company shall pay Employee's designated beneficiary or beneficiaries, within 30 days of Employee's death in a lump sum in cash, (i) Employee's Base Salary from the date of Employee's death through the end of the month in which Employee's death occurs and (ii) any Accrued Obligations (as defined in paragraph 1(f) below).

(b) DISABILITY. Upon termination of Employee's employment prior to expiration of the Term by reason of Employee's Disability, the Company shall pay Employee, within 30 days of such termination in a lump sum in cash, (i) Employee's Base Salary from the date of Employee's termination of employment due to Disability through the end of the month in which such termination occurs, offset by any amounts payable to Employee under any disability insurance plan or policy provided by the Company and (ii) any Accrued Obligations (as defined in paragraph 1(f) below). "Disability" shall mean a condition, resulting from bodily injury or disease, that renders, and for a six consecutive month period has rendered, Employee unable to perform substantially the duties pertaining to his employment with the Company. A return to work of less than 14 consecutive days will not be considered an interruption in Employee's six consecutive months of disability. Disability will be determined by the Company on the basis of medical evidence satisfactory to the Company.

(c) TERMINATION FOR CAUSE; RESIGNATION BY EMPLOYEE WITHOUT GOOD REASON. The Company may terminate Employee's employment under this Agreement with or without Cause at any time. Upon termination of Employee's employment prior to expiration of the Term by the Company for Cause or upon Employee's resignation without Good Reason, this Agreement shall terminate without further obligation by the Company, except for the payment of any Accrued Obligations (as defined in paragraph 1(f) below). As used herein, "Cause" shall mean: (i) the plea of guilty or nolo contendere to, or conviction for, a felony offense; provided, however, that after indictment, the Company may suspend Employee from the rendition of services, but without limiting or modifying in any other way the Company's obligations to Employee under this Agreement; provided, further, that Employee's employment shall be immediately reinstated if the indictment is dismissed or otherwise dropped and there is not otherwise grounds to terminate Employee's employment for Cause; (ii) a material breach by Employee of a fiduciary duty owed to the Company; (iii) a material breach by Employee of any of the covenants made by Employee in Section 2 hereof; or (iv) the willful or gross neglect by Employee of the material duties required by this Agreement. Before a cessation of Employee's employment shall be deemed to be a termination of Employee's employment for Cause, (A) the Company shall provide written notice to Employee that identifies the conduct described in clauses (ii), (iii) or (iv) above, as applicable, and (B) in the event that the event or condition is curable, Employee shall have failed to remedy such event or condition within 30 days after Employee shall have received the written notice from the Company described above. As used herein, "Good Reason" shall mean the occurrence of any of the following without Employee's written consent, (i) a material adverse change in Employee's title, duties, operational authorities

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or reporting responsibilities as they relate to Employee's position as Chairman and Chief Executive Officer of LendingTree from those in effect immediately following the Effective Date, excluding for this purpose any such change that is an isolated and inadvertent action not taken in bad faith and that is remedied by the Company promptly after receipt of notice thereof given by the Employee, (ii) a material reduction in Employee's annual base salary, (iii) a relocation of Employee's principal place of business more than 25 miles from whichever of either the Charlotte, North Carolina or New York, New York metropolitan areas the Employee is then resident, or (iv) a material breach by the Company of this Agreement, excluding for this purpose any such action that is an isolated and inadvertent action not taken in bad faith and that is remedied by the Company promptly after receipt of notice thereof given by the Employee. Notwithstanding the foregoing, there shall be no Good Reason as it relates to the transitional position of President and Chief Operating Officer of the Company prior to the LT Spin-Off.

(d) TERMINATION BY THE COMPANY OTHER THAN FOR DEATH, DISABILITY OR CAUSE; RESIGNATION BY EMPLOYEE FOR GOOD REASON. Upon termination of Employee's employment with LendingTree prior to expiration of the Term (i) by the Company without Cause (other than for death or Disability) or (ii) upon Employee's resignation for Good Reason (either such termination, a "Qualifying Termination"), subject to Employee's execution and non-revocation of a general release of the Company and its affiliates substantially in the form attached hereto as Exhibit A and Employee's compliance with Sections 2(a) through 2(e), (A) the Company shall pay Employee the Base Salary through the earlier of remainder of the Term or three (3) years from the date of termination; (B) the Company shall pay Employee within 30 days of the date of such termination in a lump sum in cash any Accrued Obligations (as defined in paragraph 1(f) below); (C) the vesting of all IAC restricted stock units held by Employee on the Effective Date shall be accelerated in full; and (D) to the extent previously granted, the Company shall vest in full the LT Restricted Stock and the LT Options on the termination date and such options shall remain exercisable for a period of twelve months from the date of such termination; provided that in no event shall Employee's resignation be for "Good Reason" unless (x) an event or circumstance set forth in any of clauses (i) through (iv) of the definition thereof shall have occurred and Employee provides the Company with written notice thereof within forty-five (45) days after Employee has knowledge of the occurrence or existence of such event or circumstance, which notice specifically identifies the event or circumstance that Employee believes constitutes Good Reason, (y) the Company fails to correct the circumstance or event so identified within thirty (30) days after the receipt of such notice, and (z) Employee resigns within ninety (90) days after the date of delivery of the notice referred to in clause (x) above.

(e) MITIGATION; OFFSET. In the event of a termination of Employee's employment prior to the end of the Term, in no event shall Employee be obligated to seek other employment or take any other action by way of mitigation of severance benefits or other compensation or benefits. If Employee obtains other employment during the Term, the amount of any severance payments to be made to Employee under Sections 1(d) or 1(g) hereof after the date such employment is secured shall be offset by the amount of compensation earned by Executive from such employment through the end of the Term. For purposes of this Section 1(e), Employee shall have an obligation to inform the Company promptly regarding Employee's employment status following termination and during the period encompassing the Term.

(f) ACCRUED OBLIGATIONS. As used in this Agreement, "Accrued Obligations" shall mean the sum of (i) any portion of Employee's accrued but unpaid Base Salary through the date of death or termination of employment for any reason, as the case may be; (ii) any compensation previously earned but deferred by Employee (together with any interest or earnings thereon) that has not yet been paid, (iii) any reasonable and necessary business expenses incurred by Employee prior to the date of termination of employment but not yet reimbursed and (iv) any benefits earned by Employee but unpaid or unused at the date of termination of employment provided that the payout of these benefits is consistent with the plans, policies, programs and practices of the Company at the date of termination of employment.

(g) DELAY OR TERMINATION OF LT SPIN-OFF. In the event that the Company has not filed a registration statement for LendingTree relating to the LT Spin-Off with the Securities and Exchange Commission, or the Company determines not to proceed with the LT Spin-Off, in either case on or before March 31, 2009, the Company shall notify Employee and Employee shall have the right to terminate his employment within sixty (60) days of such notice. The Company and Employee agree that Employee's right to terminate under this Section 1(g) will be triggered if the LT Spin-Off will not include, over Employee's reasonable objection, both of the Real Estate business and the Lending business that comprise LendingTree, whether due to the shut down or sale of either business, or otherwise; provided that if both such businesses as they exist at the time of the LT Spin-Off are spun-off together by the deadline stated above, no termination right is triggered regardless of whether the particular components of the Real Estate business or the Lending business differ from what exists on the Effective Date. If Employee exercises his termination right under this Section 1(g), subject to Employee's execution and non-revocation of a general release of the Company and its affiliates substantially in the form attached hereto as Exhibit A and Employee's compliance with Sections 2(a) through 2(e), upon payment by the Company of the Accrued Obligations, payment to Employee of the Base Salary for a period of six (6) months from the date of termination and the vesting of equity as provided in Sections 3A(c)(ii) and (iii), the Company shall have no further obligations to Employee hereunder.

## 2. CONFIDENTIAL INFORMATION; NON-COMPETE; NON-SOLICITATION; AND PROPRIETARY RIGHTS.

(a) CONFIDENTIALITY. Employee acknowledges that while employed by the Company Employee will occupy a position of trust and confidence. Employee shall not, except as may be required to perform Employee's duties hereunder or as required by applicable law, disclose to others or use, whether directly or indirectly, any Confidential Information. "Confidential Information" shall mean information about the Company or any of its subsidiaries or affiliates, and their clients and customers that is not disclosed by the Company or any of its subsidiaries or affiliates for financial reporting purposes and that was learned by Employee in the course of employment with the Company or any of its subsidiaries or affiliates, including without limitation any proprietary knowledge, trade secrets, data, formulae, information and client and customer lists and all papers, resumes, and records (including computer records) of the documents containing such Confidential Information. Employee acknowledges that such Confidential Information is specialized, unique in nature and of great value to the Company and its subsidiaries or affiliates, and that such information gives the Company and its subsidiaries or affiliates a competitive advantage. Employee agrees to deliver or return to the Company, at the

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Company's request at any time or upon termination or expiration of Employee's employment or as soon thereafter as possible, all documents, computer tapes and disks, records, lists, data, drawings, prints, notes and written information (and all copies thereof) furnished by the Company and its subsidiaries or affiliates or prepared by Employee in the course of Employee's employment by the Company and its subsidiaries or affiliates. As used in this Agreement, "affiliates" shall mean any company controlled by, controlling or under common control with the Company.

(b) NON-COMPETITION. During the Term and for a period of 24 months beyond Employee's date of termination of employment for any reason following the date hereof (the "Restricted Period"), Employee shall not, without the prior written consent of the Company, directly or indirectly, engage in or become associated with a Competitive Activity. For purposes of this Section 2(b): (i) a "Competitive Activity" means any business or other endeavor, in any state of the United States or a comparable jurisdiction in Canada or any other country, involving products or services that are the same or similar to the type of products or services that LendingTree is engaged in providing both (x) as of the date hereof or at any time during the Term and (y) at any time during the twelve (12) month period preceding Employee's termination of employment, and (ii) Employee shall be considered to have become "associated with a Competitive Activity" if Employee becomes directly or indirectly involved as an owner, principal, employee, officer, director, independent contractor, representative, stockholder, financial backer, agent, partner, member, advisor, lender, or in any other individual or representative capacity with any individual, partnership, corporation or other organization that is engaged in a Competitive Activity. Notwithstanding the foregoing, (i) Employee may make and retain investments during the Restricted Period, for investment purposes only, in less than one percent (1%) of the outstanding capital stock of any publicly-traded corporation engaged in a Competitive Activity if the stock of such corporation is either listed on a national stock exchange or on the NASDAQ National Market System if Employee is not otherwise affiliated with such corporation and (ii) Employee may become employed by a partnership, corporation or other organization that is engaged in a Competitive Activity so long as Employee has no direct or indirect responsibilities or involvement in the Competitive Activity.

(c) NON-SOLICITATION OF EMPLOYEES. During the Restricted Period, Employee shall not, without the prior written consent of the Company, directly or indirectly, hire or recruit or solicit the employment or services of (whether as an employee, officer, director, agent, consultant or independent contractor), any employee, officer, director, agent, consultant or independent contractor of the Company or any of its subsidiaries or affiliates (except for such employment or hiring by the Company or any of its subsidiaries or affiliates); provided, however, that this Section 2(c) shall not apply to any hiring which results solely from a general solicitation of employment that was not directed to employees of the Company or any of its subsidiaries or affiliates.

(d) NON-SOLICITATION OF BUSINESS PARTNERS. During the Restricted Period, Employee shall not, without the prior written consent of the Company, directly or indirectly, solicit, attempt to do business with, or do business with any business partners or business affiliates of the Company or any of its subsidiaries or those affiliates of the Company that are engaged in a Competitive Activity, or encourage (regardless of who initiates the contact) any

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such business partners or business affiliates to use the services of any competitor of the Company, its subsidiaries or affiliates.

(e) PROPRIETARY RIGHTS; ASSIGNMENT. All Employee Developments shall be made for hire by Employee for the Company or any of its subsidiaries or affiliates. "Employee Developments" means any idea, discovery, invention, design, method, technique, improvement, enhancement, development, computer program, machine, algorithm or other work or authorship that (i) relates to the business or operations of the Company or any of its subsidiaries or affiliates, or (ii) results from or is suggested by any undertaking assigned to the Employee or work performed by the Employee for or on behalf of the Company or any of its subsidiaries or affiliates, whether created alone or with others, during or after working hours. All Confidential Information and

all Employee Developments shall remain the sole property of the Company or any of its subsidiaries or affiliates. The Employee shall acquire no proprietary interest in any Confidential Information or Employee Developments developed or acquired during the Term. To the extent the Employee may, by operation of law or otherwise, acquire any right, title or interest in or to any Confidential Information or Employee Development, the Employee hereby assigns to the Company all such proprietary rights. The Employee shall, both during and after the Term, upon the Company's request, promptly execute and deliver to the Company all such assignments, certificates and instruments, and shall promptly perform such other acts, as the Company may from time to time in its discretion deem necessary or desirable to evidence, establish, maintain, perfect, enforce or defend the Company's rights in Confidential Information and Employee Developments.

(f) COMPLIANCE WITH POLICIES AND PROCEDURES. During the Term, Employee shall adhere to the policies and standards of professionalism set forth in the Company's policies and procedures as they may exist from time to time.

(g) REMEDIES FOR BREACH. Employee expressly agrees and understands that Employee will notify the Company in writing of any alleged breach of this Agreement by the Company, and the Company will have 30 days from receipt of Employee's notice to cure any such breach.

Employee expressly agrees and understands that the remedy at law for any breach by Employee of this Section 2 will be inadequate and that damages flowing from such breach are not usually susceptible to being measured in monetary terms. Accordingly, it is acknowledged that upon Employee's violation of any provision of this Section 2, in addition to any remedy that the Company may have at law, the Company shall be entitled to obtain from any court of competent jurisdiction immediate injunctive relief and obtain a temporary order restraining any threatened or further breach as well as an equitable accounting of all profits or benefits arising out of such violation. Nothing in this Section 2 shall be deemed to limit the Company's remedies at law or in equity for any breach by Employee of any of the provisions of this Section 2, which may be pursued by or available to the Company.

(h) SURVIVAL OF PROVISIONS. The obligations contained in this Section 2 shall, to the extent provided in this Section 2, survive the termination or expiration of Employee's employment with the Company and, as applicable, shall be fully enforceable thereafter in accordance with the terms of this Agreement. If it is determined by a court of competent

jurisdiction in any state that any restriction in this Section 2 is excessive in duration or scope or is unreasonable or unenforceable under the laws of that state, it is the intention of the parties that such restriction may be modified or amended by the court to render it enforceable to the maximum extent permitted by the law of that state. If any of the covenants of this Section 2 are determined to be wholly or partially unenforceable in any jurisdiction, such determination shall not be a bar to or in any way diminish the rights of the Company or its affiliates, as applicable, to enforce any such covenant in any other jurisdiction.

3. WAIVER OF PRIOR AGREEMENTS. This Agreement constitutes the entire agreement between the parties, and Employee acknowledges that he has waived, effective as of the Effective Date, any and all rights under prior agreements and understandings (whether written or oral) between Employee and LendingTree or the Company with respect to the subject matter of this Agreement, other than the Shares Agreement, as modified by the Prior Agreement, and the provisions of the Prior Agreement referred to in Section 3A(c)(i). In addition, Employee acknowledges that notwithstanding the foregoing, Employee shall continue to be subject to those terms of the Prior Agreement which survive the termination of such agreement, and those restrictive covenants in the Prior Agreement that begin to run from Employee's date of termination, shall run from the Effective Date concurrently with any similar covenants contained herein. Employee acknowledges and agrees that neither the Company nor anyone acting on its behalf has made, and is not making, and in executing this Agreement, the Employee has not relied upon, any representations, promises or inducements except to the extent the same is expressly set forth in this Agreement.

4. ASSIGNMENT; SUCCESSORS. This Agreement is personal in its nature and none of the parties hereto shall, without the consent of the others, assign or transfer this Agreement or any rights or obligations hereunder; provided, that the Company shall assign the Agreement to LT Parent no later than the date of the LT Spin-Off and provided, further, that in the event of a merger, consolidation, transfer, reorganization, or sale of all, substantially all or a substantial portion of the assets of the Company with or to any other individual or entity, this Agreement shall, subject to the provisions hereof, be binding upon and inure to the benefit of such successor and such successor (including LT Parent upon assignment of this Agreement) shall discharge and perform all the promises, covenants, duties, and obligations of the Company hereunder, and all references herein to the "Company" shall refer to such successor.

5. WITHHOLDING. The Company shall make such deductions and withhold such amounts from each payment and benefit made or provided to Employee hereunder, as may be required from time to time by applicable law, governmental regulation or order.

6. HEADING REFERENCES. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose. References to "this Agreement" or the use of the term "hereof" shall refer to these Standard Terms and Conditions and the Employment Agreement attached hereto, taken as a whole.

7. WAIVER; MODIFICATION. Failure to insist upon strict compliance with any of the terms, covenants, or conditions hereof shall not be deemed a waiver of such term, covenant, or

condition, nor shall any waiver or relinquishment of, or failure to insist upon strict compliance with, any right or power hereunder at any one or more times be deemed a waiver or relinquishment of such right or power at any other time or times. This Agreement shall not be modified in any respect except by a writing executed by each party hereto.

8. SEVERABILITY. In the event that a court of competent jurisdiction determines that any portion of this Agreement is in violation of any law or public policy, only the portions of this Agreement that violate such law or public policy shall be stricken. All portions of this Agreement that do not violate any statute or public policy shall continue in full force and effect. Further, any court order striking any portion of this Agreement shall modify the stricken terms as narrowly as possible to give as much effect as possible to the intentions of the parties under this Agreement.

9. INDEMNIFICATION. The Company shall indemnify and hold Employee harmless for acts and omissions in Employee's capacity as an officer, director or employee of the Company to the maximum extent permitted under applicable law; provided, however, that neither the Company, nor any of its

subsidiaries or affiliates shall indemnify Employee for any losses incurred by Employee as a result of acts that would constitute Cause under Section 1(c) of this Agreement. This Section 9 shall survive the termination or expiration of Employee's employment with the Company and, as applicable, shall be fully enforceable thereafter in accordance with the terms of this Agreement.

10. **SECTION 409A OF THE CODE.** The benefits provided under this Agreement shall comply with Section 409A of the Code and the regulations thereunder. To the extent so required in order to comply with Section 409A of the Code, (i) amounts and benefits to be paid or provided under this Agreement shall be paid or provided to Employee in a single lump sum on the first business day after the date that is six months following the date of termination of Employee's employment or shall begin six months and one day following the date of termination, and (ii) the Company and Employee agree to amend or modify this Agreement and any agreements relating hereto (including any award agreement with respect to equity compensation described in Section 3A(c)) as may be necessary to comply with Section 409A of the Code.

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ACKNOWLEDGED AND AGREED:

Date: January 7, 2008

IAC/INTERACTIVECORP

By: /s/ Greg Blatt

Name: Greg Blatt

Title:

By: /s/ Douglas R. Lebda

Name: Douglas R. Lebda

#### **EXHIBIT A**

#### **FORM OF RELEASE AGREEMENT**

This Release Agreement ("Release") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, hereinafter "Execution Date", by and between [Employee Full Name] (hereinafter "Employee"), and [IAC/InterActiveCorp][LendingTree] (hereinafter, the "Company"). The Employee and the Company are sometimes collectively referred to as the "Parties".

1. The Employee's employment with the Company is terminated effective [Month, Day, Year] (hereinafter "Termination Date"). The Parties have agreed to avoid and resolve any alleged existing or potential disagreements between them arising out of or connected with the Employee's employment with the Company including the termination thereof. The Company expressly disclaims any wrongdoing or any liability to the Employee.
2. The Company agrees to provide the Employee the severance benefits provided for in Section [3A(e)][1(d)][1(g)] of his/her Employment Agreement (the "Severance Benefits") with the Company, dated as of [ ], after he/she executes this Release [FOR 40+ and does not revoke it as permitted in Section 8 below, the expiration of such revocation period being the "Effective Date").
3. Employee represents that he/she has not filed, and will not file, any complaints, lawsuits, administrative complaints or charges relating to her employment with, or resignation from, the Company, excluding any action to enforce the Employment Agreement as it relates to the provision of the Severance Benefits or to Sections 3A(d) or 9[; provided, however, that nothing contained in this Section 3 shall prohibit you from bringing a claim to challenge the validity of the ADEA Release in Section 8 herein]. Employee agrees to release the Company, its subsidiaries, affiliates, and their respective parents, direct or indirect subsidiaries, divisions, affiliates and related companies or entities, regardless of its or their form of business organization, any predecessors, successors, joint ventures, and parents of any such entity, and any and all of their respective past or present shareholders, partners, directors, officers, employees, consultants, independent contractors, trustees, administrators, insurers, agents, attorneys, representatives and fiduciaries, including without limitation all persons acting by, through, under or in concert with any of them (collectively, the "Released Parties"), from any and all claims, charges, complaints, causes of action or demands of whatever kind or nature that Employee now has or has ever had against the Released Parties, whether known or unknown, arising from or relating to Employee's employment with or discharge from the Company, including but not limited to: wrongful or tortious termination; constructive discharge; implied or express employment contracts and/or estoppel; discrimination and/or retaliation under any federal, state or local statute or regulation, specifically including any claims Employee may have under the Fair Labor Standards Act, the Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964 as amended, and the Family and Medical Leave Act; the discrimination or other employment

laws of the State of [ ]\*; any claims brought under any federal or state statute or regulation for non-payment of wages or other compensation, including grants of stock options or any other equity compensation; and libel, slander, or breach of contract other than the breach of this Release. This Release specifically excludes claims, charges, complaints, causes of action or demand that post-date the Termination Date [or the Effective Date, whichever is later].

4. Employee agrees to keep the fact that this Release exists and the terms of this Release in strict confidence except to his/her immediate family and his/her financial and legal advisors on a need-to-know basis.
5. Employee warrants that no promise or inducement has been offered for this Release other than as set forth herein and that this Release is executed without reliance upon any other promises or representations, oral or written. Any modification of this Release must be made in writing and be signed by Employee and the Company.

6. Employee will direct all employment verification inquiries to [HR Rep]. In response to inquiries regarding Employee’s employment with the Company, the Company by and through its speaking agent(s) agrees to provide only the following information: Employee’s date of hire, the date her employment ended and rates of pay.
7. If any provision of this Release or compliance by Employee or the Company with any provision of the Release constitutes a violation of any law, or is or becomes unenforceable or void, then such provision, to the extent only that it is in violation of law, unenforceable or void, will be deemed modified to the extent necessary so that it is no longer in violation of law, unenforceable or void, and such provision will be enforced to the fullest extent permitted by law. If such modification is not possible, such provision, to the extent that it is in violation of law, unenforceable or void, will be deemed severable from the remaining provisions of this Release, which provisions will remain binding on both Employee and the Company. This Release is governed by, and construed and interpreted in accordance with the laws of the State of [ ], without regard to principles of conflicts of law. Employee consents to venue and personal jurisdiction in the State of [ ] for disputes arising under this Release. This Release represents the entire understanding with the Parties with respect to subject matter herein, no oral representations have been made or relied upon by the Parties.
8. [FOR EMPLOYEES OVER 40 ONLY — In further recognition of the above, Employee hereby releases and discharges the Released Parties from any and all claims, actions and causes of action that he/she may have against the Released Parties, as of the date of the execution of this Release, arising under the Age Discrimination in Employment Act of 1967, as amended (“ADEA”), and the applicable rules and regulations promulgated thereunder. The Employee acknowledges and understands that ADEA is a federal statute that prohibits discrimination on the basis of age in employment, benefits and benefit plans. Employee specifically agrees and acknowledges that: (A) the release in this Section 8 was granted in exchange for the receipt of consideration that exceeds the amount to which he/she would

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\* Insert state of employment.

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otherwise be entitled to receive upon termination of his/her employment; (B) his/her waiver of rights under this Release is knowing and voluntary as required under the Older Workers Benefit Protection Act; (B) that he/she has read and understands the terms of this Release; (C) he/she has hereby been advised in writing by the Company to consult with an attorney prior to executing this Release; (D) the Company has given him/her a period of up to twenty-one (21) days within which to consider this Release, which period shall be waived by the Employee’s voluntary execution prior to the expiration of the twenty-one day period; and (E) following his/her execution of this Release he/she has seven (7) days in which to revoke his/her release as set forth in this Section 8 only and that, if he/she chooses not to so revoke, the Release in this Section 8 shall then become effective and enforceable and the payment listed above shall then be made to his/her in accordance with the terms of this Release. To cancel this Release, Employee understands that he/she must give a written revocation to the General Counsel of the Company at [ ]†, either by hand delivery or certified mail within the seven-day period. If he/she rescinds the Release, it will not become effective or enforceable and he/she will not be entitled to any benefits from the Company.]

9. **EMPLOYEE ACKNOWLEDGES AND AGREES THAT HE/SHE HAS CAREFULLY READ AND VOLUNTARILY SIGNED THIS RELEASE, THAT HE/SHE HAS HAD AN OPPORTUNITY TO CONSULT WITH AN ATTORNEY OF HIS/HER CHOICE, AND THAT HE/SHE SIGNS THIS RELEASE WITH THE INTENT OF RELEASING THE COMPANY, ITS AFFILIATES, SUBSIDIARIES AND THEIR RESPECTIVE SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS FROM ANY AND ALL CLAIMS.**

ACCEPTED AND AGREED TO:

\_\_\_\_\_  
[Company Name]

\_\_\_\_\_  
[Employee Full Name]

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
† Insert address.

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT ("Agreement") is entered into by and between Bret A. Violette ("Executive") and IAC/InterActiveCorp, a Delaware corporation (the "Company"), and is effective April 11, 2007 (the "Effective Date"). LendingTree, LLC is party hereto for purposes of Sections 1A and 4A(e)(2) only.

WHEREAS, the Company desires to establish its right to the services of Executive, in the capacity described below, on the terms and conditions hereinafter set forth, and Executive is willing to accept such employment on such terms and conditions.

NOW, THEREFORE, in consideration of the mutual agreements hereinafter set forth, Executive and the Company have agreed and do hereby agree as follows:

1A. PRIOR AGREEMENT. Executive and LendingTree, LLC, a subsidiary of the Company, are currently party to that certain Amended and Restated Employment Agreement, dated as of April 28, 2006, as supplemented by that certain Addendum dated as of January 8, 2007 (as supplemented, the "Prior Agreement"). This Agreement shall replace and supersede the Prior Agreement, and as of the date hereof, the Prior Agreement shall no longer be of any force or effect.

2A. EMPLOYMENT. During the Term (as defined below), the Company shall employ Executive, and Executive shall be employed, as President of RealEstate.com. During Executive's employment with the Company, Executive shall do and perform all services and acts necessary or advisable to fulfill the duties and responsibilities as are commensurate and consistent with Executive's position and shall render such services on the terms set forth herein. During Executive's employment with the Company, Executive shall report directly to the President and Chief Operating Officer of the Company or such person(s) as from time to time may be designated by the Company (hereinafter referred to as the "Reporting Officer"). Executive shall have such powers and duties with respect to RealEstate.com (and its subsidiaries, divisions, and businesses) (collectively, the "RealEstate.com Businesses") as may reasonably be assigned to Executive by the Reporting Officer, to the extent consistent with Executive's position. Executive agrees to devote all of Executive's working time, attention and efforts to the RealEstate.com Businesses and to perform the duties of Executive's position in accordance with the Company's policies as in effect from time to time. Executive's principal place of employment shall be the offices of the Company's subsidiary, LendingTree, LLC, located in Charlotte, North Carolina.

3A. TERM. The term of this Agreement shall begin on the date hereof and shall expire on the third anniversary hereof (the "Term"), provided that certain terms and conditions herein may specify a greater period of effectiveness.

4A. COMPENSATION.

(a) BASE SALARY. During the period that Executive is employed with the Company hereunder, the Company shall pay Executive an annual base salary of \$400,000 (the

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"Base Salary"), payable in equal biweekly installments (or, if different, in accordance with the Company's payroll practice as in effect from time to time). For all purposes under this Agreement, the term "Base Salary" shall refer to the Base Salary as in effect from time to time.

(b) BONUS. During the period that Executive is employed with the Company hereunder, Executive shall be eligible to receive a guaranteed annual bonus in the amount of \$500,000 in each of 2007, 2008 and 2009 each year (each, a "Guaranteed Annual Bonus Payment"), payable not later than July 15 of each such year provided that Executive remains employed with the Company on such payment dates. In addition, during the period that Executive is employed with the Company hereunder, Executive shall be eligible to receive discretionary annual bonuses following the end of the Company's fiscal year paid at times consistent with other similarly situated executives of the Company.

(c) GROWTH SHARES. Subject to approval of the Compensation and Human Resources Committee of the Board of Directors of the Company, Executive shall be granted 10,000 Growth Shares at "target" performance, pursuant to an award letter and standard terms and conditions substantially in the form attached hereto as Exhibit A. In addition, the Company acknowledges that Executive has previously been granted IAC Restricted Stock Units, which Units remain outstanding and continue to be subject to their terms and conditions, except as specifically provided herein.

(d) LONG-TERM PERFORMANCE BONUS. (i) Subject to the limitations set forth herein, the Company shall pay Executive (A) a one-time bonus amount equal to \$1,000,000 in the event that the Real Estate Revenues (as defined below) equal or exceed \$130,000,000 in the 2009 fiscal year and Real Estate OIBA (as defined below) in the 2009 fiscal year equals or exceeds \$10 million; and (B) an additional one-time bonus amount equal to \$1,000,000 in the event that the Real Estate Revenues equal or exceed \$130,000,000 in the 2009 fiscal year and Real Estate OIBA in the 2009 fiscal year equals or exceeds \$20 million (together, the "LTP Bonuses"); provided that in each case Executive remains employed with the Company through the date of payment of such bonus as described below. In no event will the Company be required to pay the LTP Bonuses unless the Company, acting in its good faith discretion, determines that the RealEstate.com Businesses are in good condition and that operating decisions made to achieve the Real Estate Revenues and Real Estate OIBA targets set forth in this section (the "LTP Targets") were accomplished in the ordinary course of business and did not jeopardize the long-term health of the business. "Real Estate Revenues" means the revenues of the RealEstate.com Businesses as calculated by the Company in accordance with its ordinary business practices. "Real Estate OIBA" means Operating Income Before Amortization (as defined in the Company's public earnings releases from time to time and as calculated by the Company in accordance with its ordinary business practices) of the RealEstate.com Businesses. Within 60 days following the end of the 2009 fiscal year, the Company shall prepare and deliver to Executive a statement of Real Estate Revenues and Real Estate OIBA for such year. Executive shall have ten days after delivery of such schedule to review and comment on such schedule, after which the Company shall have ten days to finalize such schedule, which final schedule shall be prepared in the reasonable discretion of the Company acting in good faith. The Company shall pay the amount of the bonus reflected in such schedule within 75 days after the end of the 2009 fiscal year. The Company shall afford the Executive reasonable access to the

books and records of the Real Estate Business to the extent that such books and records reasonably relate to the computation of the Real Estate Revenue and Real Estate OIBA for fiscal year 2009; provided, however, that the Executive acknowledges and agrees that all such books and records are confidential information of the Company and are delivered to the Executive subject to his obligation to maintain the confidentiality of such materials provided in Section 2 of the Standard Terms and Conditions attached to this Agreement.

(ii) In the event of any specific action within the control of the Company which is reasonably likely to materially increase or decrease the likelihood that an LTP Bonus will be paid which, in the Company's good faith judgment, would unduly benefit or prejudice Executive, the Company may, after good faith discussions with Executive, adjust the LTP Targets with the good faith intent of maintaining equivalent likelihoods of Executive receiving the relevant LTP Bonuses as had existed prior to the Company taking such action, it being understood that such equivalence will be approximate and a good faith estimate only. For example, and without limitation, in the event of (A) any material addition to the RealEstate.com Businesses, whether by acquisition or otherwise, the Company could increase the LTP Targets, (B) any material deletion from the RealEstate.com Businesses, the Company could decrease the LTP Targets (though such a decrease would be likely in a sale or other disposition for value, but not likely in the event such deletion resulted from a shutdown for poor performance), or (C) an adjustment to the manner in which the Real Estate OIBA were calculated such that the net result was likely to be a material increase in the Real Estate OIBA, the LTP Targets could be appropriately adjusted by the Company.

(e) **BENEFITS.** From the Effective Date through the date of termination of Executive's employment with the Company for any reason, Executive shall be entitled to participate in any welfare, health and life insurance and pension benefit programs as may be adopted from time to time by the Company on the same basis as that provided to similarly situated employees of the Company. Without limiting the generality of the foregoing, Executive shall be entitled to the following benefits:

(i) **Reimbursement for Business Expenses.** During the period that Executive is employed with the Company hereunder, the Company shall reimburse Executive for all reasonable, necessary and documented expenses incurred by Executive in performing Executive's duties for the Company, on the same basis as similarly situated employees and in accordance with the Company's policies as in effect from time to time.

(ii) **Vacation.** During the period that Executive is employed with the Company hereunder, Executive shall be entitled to four weeks of paid vacation and such other paid time off each year, in accordance with the plans, policies, programs and practices of LendingTree, LLC applicable to similarly situated employees of LendingTree, LLC generally.

5A. **NOTICES.** All notices and other communications under this Agreement shall be in writing and shall be given by first-class mail, certified or registered with return receipt requested, or by hand delivery, or by overnight delivery by a nationally recognized carrier, in each case to the

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applicable address set forth below, and any such notice is deemed effectively given when received by the recipient (of if receipt is refused by the recipient, when so refused):

If to the Company: IAC/InterActiveCorp  
555 West 18<sup>th</sup> Street, 6<sup>th</sup> Floor  
New York, NY 10011  
Attention: President and Chief Operating Officer

With a copy to:

IAC/InterActiveCorp  
555 West 18<sup>th</sup> Street, 6<sup>th</sup> Floor  
New York, NY 10011  
Attention: General Counsel

If to Executive: Bret A. Violette  
  
11103 McClure Manor Drive  
  
Charlotte, NC 28277

Either party may change such party's address for notices by notice duly given pursuant hereto.

6A. **GOVERNING LAW; JURISDICTION.** This Agreement and the legal relations thus created between the parties hereto (including, without limitation, any dispute arising out of or related to this Agreement) shall be governed by and construed under and in accordance with the internal laws of the State of New York without reference to its principles of conflicts of laws. Any such dispute will be heard exclusively and determined before an appropriate federal court located in the State of New York in New York County, or, if not maintainable therein, then in an appropriate New York state court located in New York County, and each party hereto submits itself and its property to the exclusive jurisdiction of the foregoing courts with respect to such disputes. The parties hereto acknowledge and agree that this Agreement was executed and delivered in the State of New York, that IAC is headquartered in New York City and that, in the course of performing duties hereunder for the Company, Executive shall have multiple contacts with the business and operations of IAC and the Reporting Officer, as well as other businesses and operations in the State of New York, and that for those and other reasons this Agreement and the undertakings of the parties hereunder bear a reasonable relation to the State of New York. If an appropriate court determines, in connection with a dispute between the parties hereto arising out of or related to this Agreement, that the internal laws of the State of New York do not govern this Agreement and the legal relations thus created between the parties hereto, then this Agreement and such legal relations shall be governed by and construed under and in accordance with the internal laws of the State of Delaware without reference to its principles of conflicts of laws. In such a case, if the dispute is not, for any reason, maintainable in an appropriate federal court located in the State of New York in New York County or an appropriate New York state court located in New York County, such dispute will be heard exclusively and determined before an appropriate Delaware state court located in New Castle County, or, if not

jurisdiction of the foregoing courts with respect to such disputes. Each party hereto (i) agrees that service of process may be made by mailing a copy of any relevant document to the address of the party set forth above, (ii) waives to the fullest extent permitted by law any objection which it may now or hereafter have to the courts referred to above on the grounds of inconvenient forum or otherwise as regards any dispute between the parties hereto arising out of or related to this Agreement, (iii) waives to the fullest extent permitted by law any objection which it may now or hereafter have to the laying of venue in the courts referred to above as regards any dispute between the parties hereto arising out of or related to this Agreement and (iv) agrees that a judgment or order of any court referred to above in connection with any dispute between the parties hereto arising out of or related to this Agreement is conclusive and binding on it and may be enforced against it in the courts of any other jurisdiction.

7A. COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument.

8A. STANDARD TERMS AND CONDITIONS. Executive expressly understands and acknowledges that the Standard Terms and Conditions attached hereto are incorporated herein by reference, deemed a part of this Agreement and are binding and enforceable provisions of this Agreement. References to "this Agreement" or the use of the term "hereof" shall refer to this Agreement and the Standard Terms and Conditions attached hereto, taken as a whole.

9A. SECTION 409A OF THE INTERNAL REVENUE CODE. This Agreement is not intended to constitute a "nonqualified deferred compensation plan" within the meaning of Section 409A of the Internal Revenue Code of 1986, as amended, and the rules and regulations issued thereunder ("Section 409A"). Notwithstanding the foregoing, if this Agreement or any benefit paid to Executive hereunder is subject to Section 409A and if the Executive is a "Specified Employee" (as defined under Section 409A) as of the date of Executive's termination of employment hereunder, then the payment of benefits, if any, scheduled to be paid by the Company to Executive hereunder during the first six (6) month period beginning on the date of a termination of employment hereunder shall be delayed during such six (6) month period and shall commence immediately following the end of such six (6) month period (and, if applicable, the period in which such payments were scheduled to be made if not for such delay shall be extended accordingly). In no event shall the Company be required to pay Executive any "gross-up" or other payment with respect to any taxes or penalties imposed under Section 409A with respect to any benefit paid to Executive hereunder.

[The Signature Page Follows]

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed and delivered by its duly authorized officer and Executive has executed and delivered this Agreement on May 16, 2007.

IAC/InterActiveCorp

By: /s/ Greg Blatt

Name: Greg Blatt

Title: Executive Vice President and General Counsel

By: /s/ Bret A. Violette

Bret A. Violette

For purposes of Sections 1A and 4A(e)(2) hereof only:

LendingTree, LLC

By: /s/ Keith Hall

Name: Keith Hall

Title: SVP and CFO

STANDARD TERMS AND CONDITIONS

1. TERMINATION OF EXECUTIVE'S EMPLOYMENT.

(a) DEATH. In the event Executive's employment hereunder is terminated by reason of Executive's death, the Company shall pay Executive's designated beneficiary or beneficiaries, within thirty (30) days of Executive's death in a lump sum in cash, (i) Executive's Base Salary through the end of the month in which death occurs and (ii) any Accrued Obligations (as defined in paragraph 1(f) below).

(b) DISABILITY. If, as a result of Executive's incapacity due to physical or mental illness ("Disability"), Executive shall have been absent from the full-time performance of Executive's duties with the Company for a period of four (4) consecutive months and, within thirty (30) days after written

notice is provided to Executive by the Company (in accordance with Section 5A hereof), Executive shall not have returned to the full-time performance of Executive's duties, Executive's employment under this Agreement may be terminated by the Company for Disability. During any period prior to such termination during which Executive is absent from the full-time performance of Executive's duties with the Company due to Disability, the Company shall continue to pay Executive's Base Salary at the rate in effect at the commencement of such period of Disability, offset by any amounts payable to Executive under any disability insurance plan or policy provided by the Company. Upon termination of Executive's employment due to Disability, the Company shall pay Executive within thirty (30) days of such termination (i) Executive's Base Salary through the end of the month in which termination occurs in a lump sum in cash, offset by any amounts payable to Executive under any disability insurance plan or policy provided by the Company; and (ii) any other Accrued Obligations (as defined in paragraph 1(f) below).

(c) **TERMINATION FOR CAUSE.** Upon the termination of Executive's employment by the Company for Cause (as defined below), the Company shall have no further obligation hereunder, except for the payment of any Accrued Obligations (as defined in paragraph 1(f) below). As used herein, "Cause" shall mean: (i) the plea of guilty or nolo contendere to, or conviction for, the commission of a felony offense by Executive; provided, however, that after indictment, the Company may suspend Executive from the rendition of services, but without limiting or modifying in any other way the Company's obligations under this Agreement; (ii) a material breach by Executive of a fiduciary duty owed to the Company as an officer of the Company or any of its subsidiaries or affiliates; (iii) a material breach by Executive of any of the covenants made by Executive in Sections 2(a), (b), (c), (d), (e), or (h) hereof; (iv) the willful or gross neglect by Executive of the material duties required by this Agreement; or (v) a violation by Executive of any written Company policy pertaining to ethics, wrongdoing or conflicts of interest. In the event of any termination for Cause, the Company shall provide written notice (the "Cause Notice") to Executive of the grounds for termination giving rise to such for Cause termination. Such termination shall be approved by the Chief Executive Officer or the President and Chief Operating Officer of the Company, or the equivalents thereof. The Company shall send the Cause Notice to Executive within thirty days of termination or, if

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later, within thirty days after the Company's Chief Executive Officer becomes aware of the grounds for a for Cause termination.

(d) **TERMINATION BY THE COMPANY OTHER THAN FOR DEATH, DISABILITY OR CAUSE OR RESIGNATION BY EXECUTIVE FOR GOOD REASON.** If Executive's employment hereunder is terminated prior to the expiration of the Term by the Company for any reason other than Cause or Executive's death or Disability, or if Executive terminates his employment hereunder prior to the expiration of the Term for Good Reason (as defined below), then the Company shall pay to Executive:

- (i) within thirty (30) days of the date of such termination in a lump sum in cash any Accrued Obligations (as defined in paragraph 1(f) below);
- (ii) the Guaranteed Annual Bonus Payments that have not yet been paid by the Company, payable at the times set forth in Section 4A(b) hereof;
- (iii) an amount equal to the Base Salary that Executive would have been paid from the date of such termination through the end of the Term had the Executive's employment not terminated, payable in equal biweekly installments (or, if different, in accordance with the Company's payroll practice as in effect from time to time) over the course of the then remaining Term, but in no event for a period longer than two years;
- (iv) if such termination occurs after the first anniversary of the Effective Date, an amount equal to the amount which would have been payable to Executive for the LTP Bonuses had he served out the Term, multiplied by a fraction, the numerator of which is the number of complete months elapsed after the Effective Date and prior to Executive's termination or resignation, and the denominator of which is 36. Any payment pursuant to this clause (iv) shall be calculated and paid in accordance with the processes and within the timeframes set forth in Section 4A(d) (i) above. For example, if Executive is terminated without Cause after 18 complete months have elapsed after the Effective Date, and the Real Estate Revenues for 2009 exceeded \$130,000,000 and Real Estate OIBA for 2009 were \$15,000,000, then Executive would be entitled to receive a payment under this Section equal to \$500,000 in 2010 after Real Estate Revenues and Real Estate OIBA were definitely determined; and
- (v) any unvested Restricted Stock Units of the Company granted to Executive in connection with his entering into the Prior Agreement shall vest and no longer be subject to further restriction.

The payment to Executive of the severance benefits described in this Section 1(d) shall be subject to Executive's execution and non-revocation of a general release of the Company and its affiliates, in a form substantially similar to that used for similarly situated executives of the Company and its affiliates, and Executive's compliance with the restrictive covenants set forth in Sections 2(a), (b), (c), (d), (e), or (h) hereof. Executive acknowledges and agrees that the severance benefits described in this Section 1(d) constitutes good and valuable consideration for such release. For purposes of this

Agreement, "Good Reason" shall mean the material reduction in Executive's title, duties, reporting levels or responsibilities as of the date of this Agreement, excluding for this purpose any such reduction that is an isolated and inadvertent action not taken in bad faith or that is authorized pursuant to this Agreement, or any such reduction as a result of a merger or acquisition of the RealEstate.com Businesses with another significant business so long as following such transaction Executive's roles and responsibilities are not less than they were immediately prior to assuming his current position, provided that in no event shall Executive's resignation be for "Good Reason" unless (x) any such material reduction shall have occurred and Executive provides the Company with written notice thereof within thirty (30) days after Executive has knowledge of the occurrence or existence of such material reduction, which notice specifically identifies the material reduction that Executive believes constitutes Good Reason, (y) the Company fails to correct the material reduction so identified within sixty (60) days after the receipt of such notice, and (z) Executive resigns within thirty (30) days after the expiration of such 60 day period referred to in clause (y) above.

(e) **OFFSET.** If Executive obtains other employment during the period of time in which the Company is required to make payments to Executive pursuant to Section 1(d) above, the amount of any such remaining payments or benefits to be provided to Executive shall be reduced by the amount of compensation and benefits earned by Executive from such other employment through the end of such period. For purposes of this Section 1(e), Executive

shall have an obligation to inform the Company regarding Executive's employment status following termination and during the period of time in which the Company is making payments to Executive under Section 1(d)(ii) above.

(f) ACCRUED OBLIGATIONS. As used in this Agreement, "Accrued Obligations" shall mean the sum of (i) any portion of Executive's accrued but unpaid Base Salary through the date of death or termination of employment for any reason, as the case may be; and (ii) any compensation previously earned but deferred by Executive (together with any interest or earnings thereon) that has not yet been paid and that is not otherwise to be paid at a later date pursuant to the executive deferred compensation plan of the Company, if any. For the avoidance of doubt, "Accrued Obligations" shall not include any bonus amount.

## 2. CONFIDENTIAL INFORMATION; NON-COMPETITION; NON-SOLICITATION; AND PROPRIETARY RIGHTS.

(a) CONFIDENTIALITY. Executive acknowledges that, while employed by the Company, Executive will occupy a position of trust and confidence. The Company, its subsidiaries and/or affiliates shall provide Executive with "Confidential Information" as referred to below. Executive shall not, except as may be required to perform Executive's duties hereunder or as required by applicable law, without limitation in time, communicate, divulge, disseminate, disclose to others or otherwise use, whether directly or indirectly, any Confidential Information regarding the Company and/or any of its subsidiaries and/or affiliates.

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"Confidential Information" shall mean information about the Company or any of its subsidiaries or affiliates, and their respective businesses, employees, consultants, contractors, clients and customers that is not disclosed by the Company or any of its subsidiaries or affiliates for financial reporting purposes or otherwise generally made available to the public (other than by Executive's breach of the terms hereof) and that was learned or developed by Executive in the course of employment by the Company or any of its subsidiaries or affiliates, including (without limitation) any proprietary knowledge, trade secrets, data, formulae, information and client and customer lists and all papers, resumes, and records (including computer records) of the documents containing such Confidential Information. Executive acknowledges that such Confidential Information is specialized, unique in nature and of great value to the Company and its subsidiaries or affiliates, and that such information gives the Company and its subsidiaries or affiliates a competitive advantage. Executive agrees to deliver or return to the Company, at the Company's request at any time or upon termination or expiration of Executive's employment or as soon thereafter as possible, all documents, computer tapes and disks, records, lists, data, drawings, prints, notes and written information (and all copies thereof) furnished by the Company and its subsidiaries or affiliates or prepared by Executive in the course of Executive's employment by the Company and its subsidiaries or affiliates. As used in this Agreement, "subsidiaries" and "affiliates" shall mean any company controlled by, controlling or under common control with the Company.

(b) NON-COMPETITION. In consideration of this Agreement, and other good and valuable consideration provided hereunder, the receipt and sufficiency of which are hereby acknowledged by Executive, Executive hereby agrees and covenants that, during Executive's employment hereunder and for a period of twenty-four (24) months thereafter (the "Restricted Period"), Executive shall not, without the prior written consent of the Company, directly or indirectly, engage in or become associated with a Competitive Activity.

For purposes of this Section 2(b), (i) a "Competitive Activity" means any business or other endeavor involving Similar Products if such business or endeavor is in a country (including the United States) in which the Company provides, or is planning to provide, such Similar Products at such time; (ii) "Similar Products" means any products or services that are the same or similar to any of the types of products or services that the RealEstate.com Businesses or any other business for which Executive has direct or indirect responsibility during the Term, has provided, or is planning to provide, at any time during the Term; and (iii) Executive shall be considered to have become "associated with a Competitive Activity" if Executive becomes directly or indirectly involved as an owner, principal, employee, officer, director, independent contractor, representative, stockholder, financial backer, agent, partner, member, advisor, lender, consultant or in any other individual or representative capacity with any individual, partnership, corporation or other organization that is engaged in a Competitive Activity.

Notwithstanding the foregoing, Executive may make and retain investments during the Restricted Period, for investment purposes only, in less than one percent (1%) of the outstanding capital stock of any publicly-traded corporation engaged in a Competitive Activity if the stock of such corporation is either listed on a national stock exchange or on the NASDAQ National Market System if Executive is not otherwise affiliated with such corporation. Executive

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acknowledges that Executive's covenants under this Section 2(b) are a material inducement to the Company's entering into this Agreement. In addition, it shall not be a violation of this Section 2(b) for Employee to work as an owner, employee or licensed real estate agent for a real estate broker that does not have material internet or call center marketing operations; provided, that employee's employment does not directly or indirectly involve creating an internet or call center marketing capability or managing or participating in such operations.

(c) NON-SOLICITATION OF EMPLOYEES. Executive recognizes that he or she will possess Confidential Information about other employees, consultants and contractors of the Company and its subsidiaries or affiliates relating to their education, experience, skills, abilities, compensation and benefits, and inter-personal relationships with suppliers to and customers of the Company and its subsidiaries or affiliates. Executive recognizes that the information he or she will possess about these other employees, consultants and contractors is not generally known, is of substantial value to the Company and its subsidiaries or affiliates in developing their respective businesses and in securing and retaining customers, and will be acquired by Executive because of Executive's business position with the Company. Executive agrees that, during Executive's employment hereunder and for a period of twenty-four (24) months thereafter, Executive will not, directly or indirectly, hire or solicit or recruit any employee of the Company or any of its subsidiaries or affiliates if Executive learned of, or came into contact with, such employee while employed by the Company, or any employee of the RealEstate.com Businesses (or any such individual who was an employee of the Company or any of its subsidiaries or affiliates or the RealEstate.com Businesses at any time during the six (6) months prior to such act of hiring, solicitation or recruitment) for the purpose of being employed by Executive or by any business, individual, partnership, firm, corporation or other entity on whose behalf Executive is acting as an agent, representative or employee and that Executive will not convey any such Confidential Information or trade secrets about other employees of the Company or any of its subsidiaries or affiliates to any other person except within the scope of Executive's duties hereunder.

(d) NON-SOLICITATION OF CUSTOMERS. During Executive's employment hereunder and for a period of twenty-four (24) months thereafter, Executive shall not solicit any customers of the RealEstate.com Businesses or encourage (regardless of who initiates the contact) any such customers to use the facilities or services of any competitor of the RealEstate.com Businesses.

(e) PROPRIETARY RIGHTS; ASSIGNMENT. All Employee Developments (defined below) shall be considered works made for hire by Executive for the Company or, as applicable, its subsidiaries or affiliates, and Executive agrees that all rights of any kind in any Employee Developments belong exclusively to the Company. In order to permit the Company to exploit such Employee Developments, Executive shall promptly and fully report all such Employee Developments to the Company. Except in furtherance of his obligations as an employee of the Company, Executive shall not use or reproduce any portion of any record associated with any Employee Development without prior written consent of the Company or, as applicable, its subsidiaries or affiliates. Executive agrees that in the event actions of Executive are required to ensure that such rights belong to the Company under applicable laws, Executive

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will cooperate and take whatever such actions are reasonably requested by the Company, whether during or after the Term, and without the need for separate or additional compensation. "Employee Developments" means any idea, know-how, discovery, invention, design, method, technique, improvement, enhancement, development, computer program, machine, algorithm or other work of authorship, whether developed, conceived or reduced to practice during or following the period of employment, that (i) concerns or relates to the actual or anticipated business, research or development activities, or operations of the Company or any of its subsidiaries or affiliates, or (ii) results from or is suggested by any undertaking assigned to Executive or work performed by Executive for or on behalf of the Company or any of its subsidiaries or affiliates, whether created alone or with others, during or after working hours, or (iii) uses, incorporates or is based on Company (or its affiliates' or subsidiaries') equipment, supplies, facilities, trade secrets or inventions of any form or type. All Confidential Information and all Employee Developments are and shall remain the sole property of the Company or any of its subsidiaries or affiliates. Executive shall acquire no proprietary interest in any Confidential Information or Employee Developments developed or acquired during the Term. To the extent Executive may, by operation of law or otherwise, acquire any right, title or interest in or to any Confidential Information or Employee Development, Executive hereby assigns and covenants to assign to the Company all such proprietary rights without the need for a separate writing or additional compensation. Executive shall, both during and after the Term, upon the Company's request, promptly execute, acknowledge, and deliver to the Company all such assignments, confirmations of assignment, certificates, and instruments, and shall promptly perform such other acts, as the Company may from time to time in its discretion deem necessary or desirable to evidence, establish, maintain, perfect, enforce or defend the Company's rights in Confidential Information and Employee Developments.

(f) COMPLIANCE WITH POLICIES AND PROCEDURES. During the period that Executive is employed with the Company hereunder, Executive shall adhere to the policies and standards of professionalism set forth in the Company's Policies and Procedures as they may exist from time to time.

(g) SURVIVAL OF PROVISIONS. The obligations contained in this Section 2 shall, to the extent provided in this Section 2, survive the termination or expiration of Executive's employment with the Company and, as applicable, shall be fully enforceable thereafter in accordance with the terms of this Agreement. If it is determined by a court of competent jurisdiction that any restriction in this Section 2 is excessive in duration or scope or is unreasonable or unenforceable under applicable law, it is the intention of the parties that such restriction may be modified or amended by the court to render it enforceable to the maximum extent permitted by applicable law.

(h) REPRESENTATIONS AND WARRANTIES OF EMPLOYEE. Employee shall not use any confidential information, intellectual property or other proprietary rights of others in the performance of his duties hereunder. Employee shall indemnify and hold harmless the Company and its subsidiaries and affiliates for any breach of the representation and warranty set forth herein; provided, that such indemnification obligation shall be limited to amounts paid or payable to the Employee pursuant to this Agreement.

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3. TERMINATION OF PRIOR AGREEMENTS. This Agreement constitutes the entire agreement between the parties and, as of the Effective Date, terminates and supersedes any and all prior agreements and understandings (whether written or oral) between the parties with respect to the subject matter of this Agreement. Executive acknowledges and agrees that neither the Company nor anyone acting on its behalf has made, and is not making, and in executing this Agreement, Executive has not relied upon, any representations, promises or inducements except to the extent the same is expressly set forth in this Agreement. Executive hereby represents and warrants that by entering into this Agreement, Executive will not rescind or otherwise breach an employment agreement or other agreement with Executive's current employer prior to the natural expiration date of such agreement.

4. ASSIGNMENT; SUCCESSORS. This Agreement is personal in its nature and none of the parties hereto shall, without the consent of the others, assign or transfer this Agreement or any rights or obligations hereunder, provided that the Company may assign this Agreement to, or allow any of its obligations to be fulfilled by, or take actions through, any affiliate of the Company and, in the event of the merger, consolidation, transfer, or sale of all or substantially all of the assets of the Company (a "Transaction") with or to any other individual or entity, this Agreement shall, subject to the provisions hereof, be binding upon and inure to the benefit of such successor and such successor shall discharge and perform all the promises, covenants, duties, and obligations of the Company hereunder, and in the event of any such assignment or Transaction, all references herein to the "Company" shall refer to the Company's assignee or successor hereunder.

5. WITHHOLDING. The Company shall make such deductions and withhold such amounts from each payment and benefit made or provided to Executive hereunder, as may be required from time to time by applicable law, governmental regulation or order.

6. HEADING REFERENCES. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose. References to "this Agreement" or the use of the term "hereof" shall refer to these Standard Terms and Conditions and the Employment Agreement attached hereto, taken as a whole.

7. REMEDIES FOR BREACH. Executive expressly agrees and understands that Executive will notify the Company in writing of any alleged breach of this Agreement by the Company, and the Company will have thirty (30) days from receipt of Executive's notice to cure any such breach. Executive

expressly agrees and understands that in the event of any termination of Executive's employment by the Company during the Term, the Company's contractual obligations to Executive shall be fulfilled through compliance with its obligations under Section 1 of the Standard Terms and Conditions.

Executive expressly agrees and understands that the remedy at law for any breach by Executive of Section 2 of the Standard Terms and Conditions will be inadequate and that damages flowing from such breach are not usually susceptible to being measured in monetary terms. Accordingly, it is acknowledged that, upon Executive's violation of any provision of such Section 2, the Company shall be entitled to obtain from any court of competent jurisdiction

immediate injunctive relief and obtain a temporary order restraining any threatened or further breach as well as an equitable accounting of all profits or benefits arising out of such violation. Nothing shall be deemed to limit the Company's remedies at law or in equity for any breach by Executive of any of the provisions of this Agreement, including Section 2, which may be pursued by or available to the Company.

8. **WAIVER; MODIFICATION.** Failure to insist upon strict compliance with any of the terms, covenants, or conditions hereof shall not be deemed a waiver of such term, covenant, or condition, nor shall any waiver or relinquishment of, or failure to insist upon strict compliance with, any right or power hereunder at any one or more times be deemed a waiver or relinquishment of such right or power at any other time or times. This Agreement shall not be modified in any respect except by a writing executed by each party hereto. Notwithstanding anything to the contrary herein, none of (i) subject to Section 1(d) of the Standard Terms and Conditions, a change in Executive's title, duties and/or level of responsibilities, including by way of the assignment of Executive (in consultation with Executive) to another position with the Company or any its affiliates, (ii) the assignment of Executive to a different Reporting Officer due to a reorganization or an internal restructuring of the Company or its affiliated companies or (B) changes in the names of the reporting sectors and/or segments of IAC and/or the composition of the businesses within such sectors and/or segments nor (iii) a change in the title of the Reporting Officer shall constitute a modification or a breach of this Agreement.

9. **SEVERABILITY.** In the event that a court of competent jurisdiction determines that any portion of this Agreement is in violation of any law or public policy, only the portions of this Agreement that violate such law or public policy shall be stricken. All portions of this Agreement that do not violate any statute or public policy shall continue in full force and effect. Further, any court order striking any portion of this Agreement shall modify the stricken terms as narrowly as possible to give as much effect as possible to the intentions of the parties under this Agreement.

10. **INDEMNIFICATION.** The Company shall indemnify and hold Executive harmless for acts and omissions in Executive's capacity as an officer, director or employee of the Company to the maximum extent permitted under applicable law; provided, however, that neither the Company, nor any of its subsidiaries or affiliates shall indemnify Executive for any losses incurred by Executive as a result of acts described in Section 1(c) of this Agreement.

[The Signature Page Follows]

ACKNOWLEDGED AND AGREED:

Date: May 16, 2007

IAC/InterActiveCorp

By: /s/ Greg Blatt

Name: Greg Blatt

Title: Executive Vice President and General  
Counsel

By: /s/ Bret A. Violette

Name: Bret A. Violette

Title: Executive Vice President  
and General Counsel

CORRESPONDENT  
 AGREEMENT  
FORM 200

This Correspondent Loan Purchase Agreement ("Agreement"), dated the 26<sup>th</sup> day of April, 2004, by and between CitiMortgage, Inc. ("CMI"), for itself and on behalf of Citibank, FSB, Citibank (West), FSB, and Citibank, N.A., and;

HOME LOAN CENTER, INC ("Correspondent").

In consideration of the terms contained in this Agreement, CMI and Correspondent agree as follows:

1. PURCHASE AND SALE OF MORTGAGE LOANS

From time to time, Correspondent may sell to CMI and CMI may purchase from Correspondent one or more residential mortgage, home equity or other loans ("Loan(s)") in accordance with the terms, conditions, requirements, procedures, representations and warranties set forth in the "CitiMortgage, Inc. Correspondent Manual" and all amendments, bulletins, program requirements and supplements to such Manual (collectively hereinafter referred to as the "CMI Manual"), and this Agreement. CMI and Correspondent agree that the CMI Manual is incorporated by reference herein and is part of this Agreement. Further, CMI and Correspondent agree that Citibank, FSB; Citibank (West), FSB; and Citibank, N.A. are intended third party beneficiaries of this Agreement.

For each Loan offered for sale by Correspondent to CMI, Correspondent will deliver Loan documentation to CMI in accordance with the applicable terms, conditions, requirements, procedures, representations and warranties set forth in the CMI Manual. CMI may purchase Loans with or without conducting a complete review of the Loan documentation. CMI's review of, or failure to review, all or any portion of the Loan documentation shall not affect CMI's rights to demand repurchase of a Loan or any other CMI right or remedy provided by this Agreement.

For each Loan CMI agrees to purchase, CMI shall pay the amount agreed upon by CMI and Correspondent ("Purchase Price") in accordance with the applicable provisions of the CMI Manual. CMI may offset against the Purchase Price any outstanding fees or other amounts owing from Correspondent to CMI in connection with the particular purchase or other transactions.

As of the date CMI purchases each Loan, Correspondent will (i) transfer to CMI all of its right, title and interest in and to each Loan, including without limitation all documents held or subsequently acquired by Correspondent relating to each Loan and (ii) execute all documents necessary to transfer such right, title and interest to CMI.

2. REPRESENTATIONS AND WARRANTIES

Correspondent represents, warrants and covenants throughout the term of this Agreement as follows:

- (a) That it is duly organized, validly existing, in good standing, qualified and authorized to do business in each jurisdiction where it originate Loans or where a property securing any of its Loans is located; that all corporate or other actions and approvals necessary for the execution and performance of this Agreement have been taken and/or received; and that no consent from any third party is required for the execution and performance of this Agreement.
- (b) That it (i) holds and shall maintain in good standing throughout the term of this Agreement all applicable license(s) and/or registration(s) in each jurisdiction that is/are necessary for Correspondent's Loan origination, purchase and sale activities under this Agreement and (ii) is in full compliance with all laws in each jurisdiction which govern Correspondent's activities under this Agreement. Correspondent agrees to promptly provide CMI with copies of all such license(s) and/or registration(s) upon request by CMI.
- (c) That it will allow CMI to periodically investigate the financial (including but not limited to obtaining corporate and/or individual credit reports) and other status of Correspondent and, if necessary, the financial and other status of Correspondent's directors, officers and/or employees. If necessary, Correspondent shall cooperate with CMI to obtain the written consent of one or more of Correspondent's directors, officers and/or employees to such periodic investigation. Correspondent agrees that the failure to obtain such consent may result in the termination of this Agreement in accordance with the provisions of Sec. 7.

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- (d) That it is thoroughly familiar with and will comply with all applicable federal (including but not limited to the Real Estate Settlement Procedures Act, Truth-In-Lending Act, Equal Credit Opportunity Act and federal fair lending laws), state and, if necessary, local laws and regulations directly or indirectly relating to its activities under this Agreement (including but not limited to involvement in such activities of individuals convicted of crimes involving dishonesty or breach of trust).
  - (e) That Correspondent is an approved seller/servicer of conventional residential adjustable and fixed-rate mortgage Loans for Fannie Mae, Freddie Mac, and/or is a FHA-, VA- and/or HUD- approved mortgagee; that Correspondent is duly qualified, licensed, registered and otherwise authorized under all applicable laws and regulations and is in good standing to (i) originate, sell, endorse and assign Loans and, if applicable, the related Loan collateral to CMI, (ii) service Loans in the jurisdiction(s) where, if applicable, the properties securing such Loans are located for Fannie Mae, Freddie Mac, FHA or VA, and (iii) no event has occurred that would make Correspondent unable to comply with Fannie Mae, Freddie Mac, FHA, VA or HUD eligibility requirements or that would require notification to Fannie Mae, Freddie Mac, FHA or VA or HUD.
  - (f) That it does not believe, nor does it have any reason or cause to believe, it cannot perform every covenant contained in this Agreement or continue to carry on its business substantially as now conducted; that it is solvent and the sale of Loans will not cause it to become insolvent; that no action, suit, proceeding or investigation pending or threatened against Correspondent, either alone or in the aggregate, may result in its inability to carry on its

business substantially as now conducted; and that the sale of Loans under this Agreement is not undertaken with the intent to hinder, delay or defraud any of its creditors.

- (g) That it has obtained and reviewed or will, upon execution of this Agreement, promptly obtain and review the CMI Manual and will fully comply with its terms, conditions, requirements and procedures.
- (h) That it does not currently and will not in the future employ any entity or individual on the Freddie Mac exclusionary list.
- (i) That neither this Agreement nor any statement, report or other information provided or to be provided pursuant to this Agreement (including but not limited to the statements and information contained in the documentation for each Loan purchased by CMI) contains or will contain any misrepresentation or untrue statement of fact or omits or will omit to state a fact necessary to make the information not misleading. The provisions of this sub-section shall not apply to information obtained from (i) appraisers, escrow agents, title companies, closers, credit reporting agencies or any other entity approved by CMI ("Approved Entity") unless Correspondent knows or has reason to believe that any information provided by such Approved Entity is not true, correct or valid in any material respect and (ii) the Loan applicant(s) unless Correspondent knows, has reason to believe or, after performing its normal due diligence and quality control review, should have known that any information provided by the Loan applicant(s) is not true, correct or valid in any material respect.
- (j) That the documentation for each Loan sold to CMI (i) shall be duly executed by the borrower(s), (ii) shall create a valid and legally binding obligation of the borrowers(s) and (iii), if applicable, shall create a fully enforceable first or subordinate lien on the property securing repayment of the Loan.
- (k) That each mortgage, home equity or other Loan (i) shall be fully enforceable and originated in accordance with the terms, conditions, representations, warranties and covenants contained in the CMI Manual and this Agreement which were in effect as of the Loan closing date, (ii), if applicable, was serviced in accordance with applicable Fannie Mae, Freddie Mac, FHA, VA and/or HUD requirements and industry standards, and (iii) is subject to no defects or defenses, including but not limited to damage to the property securing the Loan, lien imperfections or environmental risk.
- (l) That any third-party originators referring, or in any way involved with, any Loan shall be, at a minimum, approved by Correspondent according to Fannie Mae, Freddie Mac, FHA, VA and/or HUD guidelines for approving third-party originators as described in the CMI Manual.
- (m) That it will immediately notify CMI if it (i) fails to maintain any license or registration in violation of Sec. 2(b) above and/or (ii) becomes subject to any enforcement and/or investigative

proceeding by any licensing or regulatory authority or agency and/or (iii) is named as a party or becomes involved in any material litigation.

- (n) That it will immediately notify CMI if (i) Correspondent and/or any of its principal director(s) or owner(s) becomes the debtor in any voluntary or involuntary bankruptcy proceeding, (ii) Correspondent and/or any of its principal director(s) or owner(s) requests the appointment of a receiver and/or (iii) Correspondent and/or any of its principal director(s) or owner(s) has incurred or is likely to incur a material, adverse change in its/their financial condition.
- (o) That it will immediately notify CMI of any material change in ownership and/or management.
- (p) That it will promptly respond to or otherwise comply with CMI's reasonable request(s) for periodic financial statements of Correspondent and/or any of its principal director(s) or owners and any other documentation required by CMI in connection with the recertification of Correspondent.
- (q) That it will fully comply with all additional representations, warranties and covenants contained in the CMI Manual.
- (r) That all representations, warranties and covenants contained in this Agreement and the CMI Manual shall survive the expiration and termination of this Agreement.

### 3. COSTS

Correspondent shall pay all costs and expenses incurred in connection with the transfer and delivery of Loans to CMI purchased pursuant to this Agreement, including but not limited to mortgage Loan assignment preparation and recording fees, fees for title policy endorsements and continuations, and Correspondent's attorneys' fees.

### 4. CORRESPONDENT ADVERTISING; NON-SOLICITATION AND CUSTOMER PRIVACY

Correspondent may advertise to the public the availability of various Loan programs, but Correspondent may not, in any way, directly or indirectly identify CMI in all such advertising unless (i) required by applicable law or (ii) CMI has, in advance, approved use of CMI's name in such advertising.

Correspondent agrees that the borrower(s) on all Loans shall, at the time of purchase by CMI, become the exclusive customers of CMI for all Loan-related purposes. During the first twelve (12) months after the date any Loan is purchased by CMI, Correspondent represents and warrants that Correspondent, Correspondent's directors, officers, employees, agents or affiliates will not, without the prior consent of CMI, (i) use targeted advertising, solicit or otherwise directly encourage or incite the Loan borrower(s) to refinance or prepay the Loan that was purchased by CMI, (ii) prepare, sell or distribute any customer list incorporating the names, addresses or any non-public personal information of such borrower(s) or (iii) use any such customer list to solicit, promote, or allow any other entity to solicit or promote, the sale of financial services or products to any such borrower(s). CMI and Correspondent agree that nothing contained herein shall prohibit advertising or solicitation by Correspondent that is directed to the general public in the area where the Loan borrower(s) reside(s).

Correspondent acknowledges that it has received a copy of the Citigroup Privacy Promise and/or Citigroup Privacy Policy and, to the extent necessary, shall comply with all applicable provisions of such Promise and/or Policy. Correspondent also agrees that it shall comply with all applicable federal or

state laws related to the use and/or retention of the non-public personal and/or financial information associated with all Loans and the related Loan borrower(s).

## 5. TERM

This Agreement is for an initial one-year term and shall automatically renew for successive one-year terms, unless terminated pursuant to Section 7 of this Agreement.

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## 6. RELATIONSHIP BETWEEN CMI AND CORRESPONDENT

This Agreement will not create any agency between Correspondent and CMI. Correspondent shall conduct its business under this Agreement as an independent contractor and shall have the rights and responsibilities of an independent contractor.

CMI shall not be responsible for any actions or omissions by Correspondent. Correspondent agrees it will not represent, orally, in writing, by implication or otherwise, that it can act in any capacity on behalf of CMI.

CMI is prescribing no marketing plan for Correspondent and exercises no control over the methods, operations and practices of Correspondent except as provided in this Agreement and the CMI Manual.

Correspondent acknowledges it is not selling or distributing CMI's services, and CMI has made no promise, representation or warranty regarding the profitability of any arrangement with Correspondent.

Correspondent and CMI acknowledge that each will be providing the other party with valuable proprietary information ("Confidential Information"), including but not limited to information regarding CMI's or Correspondent's products, programs, underwriting policies, procedures and customers. Except as necessary to perform its obligations under this Agreement or as required by law, each party will not disclose any Confidential Information to any person outside that party's organization and will limit access to this information within its organization on a strict "need to know" basis. Each party agrees to notify all of its directors, officers, employees and other agents of its obligations regarding Confidential Information and will cause such directors, officers, employees and other agents to comply with such obligations.

## 7. TERMINATION

CMI may immediately terminate this Agreement without notice and CMI then will have no further obligations under this Agreement upon: (1) the failure of Correspondent to perform or abide by any term, condition, covenant or obligation contained in this Agreement or the CMI Manual; (2) the finding by CMI that any representation or warranty made by Correspondent is false or incorrect in any material respect; (3) commencement by or against Correspondent of any bankruptcy, insolvency or similar proceedings; (4) CMI's determination that Correspondent's actions contravene the terms and conditions of this Agreement or could adversely impact CMI's activities or reputation; or (5) the failure of loans sold by Correspondent to CMI pursuant to this Agreement to satisfy CMI's expectations regarding loan quality and/or performance.

Either party may terminate this Agreement for any other reason upon thirty (30) calendar days prior notice to the other. In the event of termination, Correspondent shall fully cooperate with and assist CMI in obtaining the documentation necessary to complete the processing and full resolution of all matters (including but not limited to the delivery of all application and/or closed loan documents and, if applicable, all Loan insuring documentation) relating to all Loans purchased by CMI.

## 8. ASSIGNMENT

Correspondent may not assign this Agreement or any of its responsibilities under this Agreement. This Agreement and all rights, obligations and responsibilities hereunder may be assigned by CitMortgage, Inc., without consent of the Correspondent, to any corporation or bank more than 50% of the voting stock of which is, directly or indirectly, owned by Citigroup, Inc.

## 9. NON-EXCLUSIVE AGREEMENT

Correspondent's rights under this Agreement are on a non-exclusive basis. CMI shall be free to market its products and services to, and to contract with, other parties and customers as it deems appropriate.

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## 10. INDEMNIFICATION

Correspondent agrees to indemnify and hold CMI harmless from any and all claims, actions and costs, including reasonable attorneys' fees and costs, arising from (i) Correspondent's performance or failure to perform under the terms, conditions or obligations of this Agreement or the CMI Manual (including but not limited to Correspondent's failure to timely deliver all documents and records associated with or related to all Loans purchased by CMI pursuant to this Agreement), (ii) any fraud, misrepresentation or breach of any representation, warranty or covenant contained in this Agreement or the CMI Manual and/or (iii) Correspondent's advertisements, promotions or other activities. This indemnification shall extend to any action or inaction by the directors, officers, employees, agents, independent contractors or other representatives of Correspondent and shall survive the expiration and termination of this Agreement.

## 11. CURE OR REPURCHASE

If CMI, in its sole and exclusive discretion, determines any Loan purchased pursuant to this Agreement:

(i) was underwritten and/or originated in violation of any term, condition, requirement or procedure contained in this Agreement or the CMI Manual in effect as of the date CMI purchased such Loan;

(ii) was underwritten and/or originated based on any materially inaccurate information or material misrepresentation made by the Loan borrower(s), Correspondent, Correspondent's directors, officers, employees, agents, independent contractors and/or affiliates, or any other party providing information relating to said Loan;

(iii) was or is capable of being rescinded by the applicable borrower(s) pursuant to the provisions of any applicable federal (including but not limited to the Truth-In-Lending Act) or state law or regulation;

(iv) must be repurchased from any secondary market investor (including but not limited to the Fannie Mae, Freddie Mac, FHA, VA, HUD or Government National Mortgage Association) due to a breach by Correspondent of any representation, warranty or covenant contained in this Agreement or the CMI Manual or a failure by Correspondent to comply in all material respects with the applicable CMI Manual terms, conditions, requirements and procedures; and/or

(v) was subject to an Early Payment Default (as defined in the CMI Manual), an Early Payoff (as defined in the CMI Manual) or any other payment related defect (as defined in the CMI Manual)

Correspondent will, upon notification by CMI, correct or cure such defect within the time prescribed by CMI to the full and complete satisfaction of CMI. If, after receiving such notice from CMI, Correspondent is unable to correct or cure such defect within the prescribed time, Correspondent shall, at CMI's sole discretion, either (i) repurchase such defective Loan from CMI at the price required by CMI ("Repurchase Price") or (ii) agree to such other remedies (including but not limited to additional indemnification and/or refund of a portion of the Loan purchase price) as CMI may deem appropriate. If CMI requests a repurchase of a defective Loan, Correspondent shall, within ten (10) business days of Correspondent's receipt of such repurchase request, pay to CMI the Repurchase Price by cashier's check or wire transfer of immediately available federal funds. If such defective Loan is owned by CMI at the time of repurchase by Correspondent, CMI shall, upon receipt of the Repurchase Price, release to Correspondent the related mortgage file and shall execute and deliver such instruments of transfer or assignment, in each case without recourse or warranty, as shall be necessary to vest in Correspondent or its designee title to the repurchased Loan.

Correspondent agrees and acknowledges that the provisions of this Sec. 11 do not, in any way, eliminate, diminish or impair Correspondent's indemnification obligations contained in Sec. 10.

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## 12. GOVERNING LAW; VENUE

This Agreement shall be governed by the laws of the State of Missouri and applicable federal law.

CMI and Correspondent agree that any action, suit or proceeding to enforce or defend any right or obligation under this Agreement or otherwise arising out of either party's performance under this Agreement shall be brought in St. Louis County Circuit Court or the United States District Court for the Eastern District of Missouri and each party irrevocably submits to the jurisdiction of either forum and waives the defense of an inconvenient forum to the maintenance of any such action, suit or proceeding in such state or federal court and any other substantive or procedural rights or remedies it may have with respect to the maintenance of any such action or proceeding in either forum.

## 13. NOTICE

All notices to CMI shall be sent in accordance with the applicable provisions of the CMI Manual and shall be addressed according to such provisions.

Prior to or at the time Correspondent executes this Agreement, it shall provide CMI with one or more procedures and addresses for delivering notices pursuant to this Agreement. In addition to these procedures and addresses, Correspondent agrees and acknowledges that CMI may deliver all notices required by this Agreement in writing to Correspondent at the address listed on the last page of this Agreement.

## 14. MODIFICATION; MERGER; ENTIRE AGREEMENT; NO WAIVER OF RIGHTS

This Agreement may not be modified except by a document or record signed by both CMI and Correspondent. This Agreement (including the CMI Manual) contains the entire agreement of the parties and supersedes all previous agreements (including all amendments thereto) between the parties hereto. Any representations, promises or agreements not contained in this Agreement or the CMI Manual shall have no force or effect. The failure of either party to exercise any right given to it under this Agreement or to insist on strict compliance of any obligation under this Agreement shall not constitute a waiver of any right, including the right to insist on strict compliance in the future.

## 15. ON-SITE REVIEW AND DOCUMENT COLLECTION

Correspondent shall permit any officer, employee or designated representative of CMI, at any reasonable time during regular business hours and upon reasonable advance notice by CMI, to conduct an examination and audit on Correspondent's premises of any of the processes implemented and documents kept by Correspondent regarding any Loan purchased by CMI pursuant to this Agreement. If Correspondent fails to timely deliver, in accordance with the applicable terms and conditions specified in the CMI Manual, all documents and records associated with or related to any Loan purchased by CMI pursuant to this Agreement, Correspondent shall also give CMI and its officers, employees, or designated representatives reasonable access to Correspondent's premises in order to allow CMI to retrieve, prepare or otherwise obtain all such documents and records. Correspondent shall also make its officers, employees and/or designated representatives available to CMI and shall cooperate with CMI in all such examinations, audits and document and record collection activities.

## 16. AUTHORITY TO EXECUTE AGREEMENT

Correspondent represents and warrants that it has all requisite power, authority and capacity to enter into this Agreement and to perform all obligations required of it hereunder. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have each been

17. CORRESPONDENT GRANT OF LIMITED POWER OF ATTORNEY

Correspondent hereby appoints CMI and the directors, officers, employees, agents, successors and assigns of CMI as its true and lawful attorney-in-fact without right of revocation and with full power of substitution for and in its place and stead to (i) demand and control all sums due on Loans purchased pursuant to this Agreement and to enforce all rights with respect thereto, (ii) endorse, mark, place or otherwise evidence Correspondent's name as payee on all checks, drafts, acceptances or other form of partial or full Loan payment delivered or tendered to CMI, (iii) endorse, mark, place or otherwise evidence Correspondent's name on all notes, mortgages, deeds of trust, and other forms of security instruments or collateral and all assignments, full or partial releases or satisfactions of said mortgages, deeds of trust, and other forms of security instruments or collateral for all Loans purchased pursuant to this Agreement. Correspondent agrees to execute such other documents as CMI may reasonably request to evidence the appointment of CMI as Correspondent's attorney-in-fact.

18. MISCELLANEOUS

All capitalized terms not otherwise defined herein shall have the meanings attributed to them in the CMI Manual. All Section headings are for convenience only and shall not be construed as part of this Agreement. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining portions hereof or affecting the validity or enforceability of such provision in any other jurisdiction and, to accomplish this purpose, the provisions hereof are severable. **This Agreement shall not be effective until signed by both parties.**

IN WITNESS WHEREOF, the duly authorized officers of CMI and Correspondent have executed this Agreement as of the date first above written.

CITIMORTGAGE, INC.  
(CMI)

Home Loan Center  
CORRESPONDENT

By /s/ Richard P. McCoppin

By /s/ Robert Hill

Title Vice President

Title SVP Finance

Date 3-29-05

Date May 7<sup>th</sup>, 2004

RICHARD P. McCOPPIN  
Manager Eligibility & Wholesale MIS  
CitiMortgage, Inc.  
1000 Technology Drive/MS 111  
O'Fallon, MO 63304  
(636) 261-0151/GEID #0002093401

Correspondent Notice Address:  
18191 Von Karman Ave, Suite 300  
Irvine, CA 92612

**NOTE: THE TEXT OF THIS AGREEMENT MAY NOT BE CHANGED IN ANY MANNER WITHOUT THE EXPRESS PERMISSION OF CITIMORTGAGE, INC. (Except for the Addendum attached hereto)**

ADDENDUM  
TO  
LOAN PURCHASE AGREEMENT

The parties set forth below have entered into this Addendum to amend the terms and conditions of the Correspondent Loan Purchase Agreement between Home Loan Center, Inc. ("HLC") and CitiMortgage, Inc. ("Purchaser") dated April 26, 2004 (the "Agreement"). All capitalized terms in this Addendum that are not otherwise defined shall have the meanings set forth for such terms in the Agreement. In the event of any inconsistency between the Agreement and this Addendum, the terms and conditions of this Addendum shall control.

From time to time, HLC or its affiliates may send email or other communications to its customers who opt in to receive certain types of communications from HLC or its affiliates or are solicited by third parties on behalf of HLC without knowledge of Purchaser's relationship to such customers ("Permitted Communications"). Permitted Communications (which may include information regarding service providers that compete with Purchaser) shall not be considered a violation of the Agreement. Notwithstanding the foregoing, Permitted Communications may not be designed to specifically target HLC's customers whose loans have been sold to Purchaser.

Notwithstanding anything to the contrary contained in the Agreement, if the Agreement is terminated, Purchaser shall remain responsible to pay the Purchase Price with respect to any Loan.

/s/ Robert Hill

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May 7, 2004

Robert Hill

SVP Finance

Home Loan Center

**Loan Purchase Agreement**

*This Agreement, dated as of 4/16, is made by and between Countrywide Home Loans, Inc., a New York corporation (“Countrywide”), and Home Loan Center, a CA corporation (“Seller”), for mutual considerations set forth herein.*

Countrywide agrees to purchase certain loans secured by real property, together with the servicing thereof (the “Loans”), from Seller under Countrywide’s mortgage loan programs, and Seller agrees to sell to Countrywide certain such Loans pursuant to the terms and conditions set forth herein and in Countrywide’s Correspondent Lending Division Loan Purchase Program Seller’s Manual, as amended from time to time (the “Manual”). In connection therewith, the parties agree as follows:

**1. ELIGIBLE LOANS**

- A. Only those Loans fully complying with the standards for Conforming Conventional, Jumbo Conventional, Government and Second Mortgage Loan Programs set forth in the Mortgage Programs section of the Manual are eligible for purchase under this Agreement. Seller must be approved, qualified and/or licensed to originate such Loans.
- B. Seller shall fully underwrite each Loan prior to submission to Countrywide in accordance with Underwriting Guidelines and Lending Requirements sections of the Manual, or, if available, use a Countrywide-approved automated underwriting system for underwriting the Loan.
- C. Seller shall be responsible for assuring that Loans submitted to Countrywide comply with all terms and conditions of this Agreement and the Manual.

**2. COMMITMENT TO PURCHASE LOANS**

The procedure pursuant to which Seller may commit to sell a Loan to Countrywide is detailed in the Loan Registration section of the Manual. For purposes of this Agreement, Countrywide and Seller define a best effort commitment to be a mandatory commitment if the Loan closes. Countrywide will confirm the conditions of the sale of the Loan to Countrywide by delivering a confirmation (“Commitment”) to Seller which sets forth the terms of the transaction, including the price Countrywide will pay for each Loan, as determined pursuant to the Pricing standards set forth in the Manual (the “Purchase Price”). The terms of the Commitment, including the Purchase Price, shall be in effect for the period of time requested by Seller and approved by Countrywide (the “Commitment Period”). If Seller is approved by Countrywide to sell Loans to Countrywide on a bulk sale basis, Countrywide and Seller shall execute the Addendum to Loan Purchase Agreement (Bulk Sales) which shall be attached to and incorporated into this Agreement by reference.

**3. UNDERWRITING AND PROPERTY APPRAISAL**

- A. Countrywide shall have the right, but not the obligation, to underwrite any Loan submitted for purchase pursuant to this Agreement, or otherwise insure that any Loan submitted for purchase complies with all terms and conditions of this Agreement and the Manual; provided that neither the existence nor the exercise of this right shall affect in any way Seller’s obligations hereunder, including without limitation, Seller’s repurchase obligations under Section 7 hereof and Seller’s hold harmless obligations under Section 9 hereof. The applicable procedures are set forth in the Prior Approval section of the Manual.
- B. Seller shall deliver to Countrywide an appraisal of the real estate security for each such Loan, signed by a qualified appraiser, as defined in the Manual, prior to Countrywide’s approval to purchase such Loan.

**4. DELIVERY OF LOAN DOCUMENTATION**

A Loan shall be deemed delivered to Countrywide if: (A) it is received by Countrywide within the Commitment Period; (B) it is in compliance with the requirements set forth in the Delivery of Closed Loans and Funding Documentation sections of the Manual; and (C) there are no outstanding conditions which would prevent Countrywide from funding the purchase of the Loan. Failure by Seller to deliver to Countrywide within 120 days from the date a Loan was purchased one or more of the original documents specified in the Delivery of Closed Loans section of the Manual shall result in assessment by Countrywide of a fee of \$50 per month for each month, after the initial 120 day period, during which one or more of such documents is outstanding, i.e., has not been delivered to Countrywide for any period of time during the month. Such fee shall be \$50 regardless of the number of such documents. Failure by Seller to deliver to Countrywide one or more of the original documents specified in the Delivery of Closed Loans section of the Manual within 270 days from the date the Loan was purchased by Countrywide shall obligate Seller to repurchase the Loan pursuant to the provisions of Section 7 of this Agreement.

**5. PAYMENT OF PURCHASE PRICE AND SELLER’S WIRE INSTRUCTIONS**

Countrywide shall, after receipt of a Loan documentation package which fully complies with the requirements of the Manual, deliver the Purchase Price (less any fees or discounts due to Countrywide) set forth in the applicable Commitment to Seller in accordance with Seller’s wire instructions or in accordance with any ballee letter or trust receipt submitted with the Loan, as determined in the sole and absolute discretion of Countrywide.



**6. SELLER’S OBLIGATIONS, REPRESENTATIONS AND WARRANTIES**

A. Seller represents and warrants to Countrywide as to each Loan offered for sale under this Agreement that as of the date of Countrywide's purchase of such Loan:

- (1) The Loan documents have been duly executed by the trustor/mortgagor, acknowledged and recorded; each Loan is valid and complies with all criteria contained in the Manual; the note and deed of trust/mortgage constitute the entire Agreement between the trustor/mortgagor and the beneficiary/mortgagee, and there is no verbal understanding or written modification which would affect the terms of the note or the deed of trust/mortgage except by written instrument delivered and expressly made known to the beneficiary/mortgagee and recorded if recording is necessary to protect the interests of the beneficiary/mortgagee.
- (2) Seller is the sole owner of the Loan and has authority to sell, transfer and assign the same on the terms set forth herein and in the Manual. There has been no assignment, sale or hypothecation thereof by Seller, except the usual hypothecation of the documents in connection with Seller's normal banking transactions in the conduct of its business.
- (3) The full principal amount of the Loan has been advanced to the trustor/mortgagor, either by payment directly to such person or by payment made on such person's request or approval. The unpaid principal balance of the Loan is as represented by Seller. All costs, fees and expenses incurred in making, closing and recording the Loan have been paid. No part of the mortgaged property has been released from the lien of the Loan, the terms of the Loan have in no way been changed or modified, and the Loan is current and not in default.
- (4) Each Loan is a valid first lien or, if specifically approved by Countrywide, a valid second lien on the mortgaged property, and the mortgaged property is free and clear of all encumbrances and liens having priority over the lien of such Loan, except for the first lien, if applicable, and liens for real estate taxes and special assessments not yet due and payable and those exceptions allowed in connection with Government Loans and other exceptions set forth in the Manual.
- (5) The mortgaged property is free and clear of all mechanics' and materialmen's liens or liens in the nature thereof, and no rights are outstanding that under law could give rise to any such lien, nor is Seller aware of any facts which could give rise to any such lien.
- (6) Each Loan which Seller represents to be insured or guaranteed is, or will within 120 days from the date of delivery of such Loan to Countrywide be, so insured or guaranteed. No action has been taken or failed to have been taken which has resulted or will result in an exclusion from, denial of, or defense to, coverage under such insurance or guarantee; and all conditions within the control of Seller as to the validity of the insurance or guaranty as required by the National Housing Act of 1934 and the rules and regulations thereunder, or as required by the Servicemen's Readjustment Act of 1944 and the rules and regulations thereunder, or imposed by the mortgage insurance companies or other insurers have been properly satisfied, and said insurance or guaranty is valid and enforceable.
- (7) All federal and state laws, rules and regulations applicable to the mortgage Loans have been complied with, including but not limited to: the Real Estate Settlement Procedures Act, the Flood Disaster Protection Act, the Federal Consumer Credit Protection Act including the Truth-in-Lending and Equal Credit Opportunity Acts, and all applicable statutes or regulations governing fraud, lack of consideration, unconscionability, consumer credit transactions or interest charges.
- (8) No Loan is the subject of, and Seller is not aware of any facts which could give rise to, litigation which could affect Countrywide's ability to enforce the terms of the obligation or its rights under the mortgage documents.
- (9) There is in force for each Loan either (a) a paid-up title insurance policy on the Loan issued by a Countrywide approved title company in an amount at least equal to the outstanding principal balance of the Loan or (b) an attorney's mortgage lien opinion. (Negatively amortizing loans require additional coverage.)
- (10) There is in force for each Loan valid hazard insurance policy coverage and, where applicable, valid flood insurance policy coverage, and such coverages meet the requirements of Countrywide specified in the Manual.
- (11) Seller will record the corporate assignment in the name of Countrywide Home Loans, Inc. at the time the deed of trust/mortgage is recorded, and the assignment of the Loan from Seller to Countrywide shall be valid and enforceable.
- (12) The borrower has no rights of rescission, set-offs, counter-claims or defenses to the note or deed of trust/mortgage securing the note arising from the acts and/or omissions of Seller.
- (13) Seller has no knowledge that any improvement located on or being part of the mortgaged property is in violation of any applicable zoning law or regulation.
- (14) All improvements included for the purpose of determining the appraised value of the mortgaged property lie wholly within the boundaries and building restriction lines of such property, and no improvements on adjoining properties encroach upon the mortgaged property.
- (15) There is no proceeding pending for total or partial condemnation of any mortgaged property and said property is free of substantial damage (including, but not limited to, any damage by fire, earthquake, windstorm, vandalism or other casualty) and in good repair.

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- (16) Seller has no knowledge of any circumstances or conditions with respect to any Loan, mortgaged property, trustor/mortgagor or trustor's/mortgagor's credit standing that reasonably could be expected to cause private institutional investors to regard any Loan as an unacceptable investment, cause any Loan to become delinquent or adversely affect the value or marketability of the Loan.
  - (17) All documents submitted are genuine. All other representations as to each such Loan are true and correct and meet the requirements and specifications of all parts of this Agreement and the Manual.

B. Seller represents and warrants to Countrywide that as of the date first set forth above and as of the date of Countrywide's purchase of each Loan hereunder:

- (1) Seller is duly organized, validly existing and in good standing under the laws of its state of incorporation and is qualified and/or licensed as necessary to transact business, including the originating and selling of mortgage loans, and is in good standing in each state where the property securing a Loan is located.
- (2) Seller has the full power and authority to hold and sell each Loan; and neither the execution and delivery of this Agreement, nor the acquisition or origination of the Loans, nor the sale of the Loans, nor the consummation of the transactions contemplated herein, nor the fulfillment of or compliance with the terms and conditions of this Agreement will conflict with, or result in a breach of any term, condition or provision of, Seller's certificate of incorporation or by-laws, any license held by Seller or governing Seller's activities or any agreement to which Seller is a party or by which Seller is bound, or constitute a material default or result in an acceleration under any of the foregoing.
- (3) No consent, approval, authorization or order of any court, governmental body or any other person or entity is required for the execution, delivery and performance by Seller of this Agreement, including but not limited to, the sale of the Loans to Countrywide.
- (4) Neither Seller nor its agents know of any suit, action, arbitration or legal or administrative or other proceeding pending or threatened against Seller which would affect its ability to perform its obligations under this Agreement.
- (5) Seller is not a party to, bound by or in breach or violation of any agreement or instrument, or subject to or in violation of any statute, order or regulation of any court, regulatory body, administrative agency or governmental body having jurisdiction over it, which materially and adversely affects, or may in the future materially and adversely affect, the ability of Seller to perform its obligations under this Agreement or the Manual, including, without limitation, Seller's repurchase and indemnification obligations pursuant to Sections 7, 8 and 9 of this Agreement.

## 7. SELLER'S REPURCHASE OBLIGATIONS

- A. Seller shall repurchase any Loan sold to Countrywide pursuant to this Agreement within twenty business days of receipt of written notice from Countrywide of any of the following circumstances (the "Repurchase Obligation"):
- (1) Seller fails to deliver to Countrywide within 270 days from the date each Loan was purchased the original documents specified in the Delivery of Closed Loans section of the Manual.
  - (2) Countrywide determines that there is any evidence of fraud in the origination of the Loan or in the sale of the Loan to Countrywide or that any matter in the mortgage loan file is not true and correct.
  - (3) If Countrywide determines the Loan is not eligible for GNMA, FNMA or FHLMC pool participation or whole loan purchase or purchase by a private investor, or, if Countrywide has sold such Loan in whole or in part to GNMA, FNMA, FHLMC or a private investor, and GNMA, FNMA, FHLMC or the private investor requires Countrywide to repurchase said interest or reimburse it for losses, or the mortgage insurer denies coverage on the Loan; provided the reason for such ineligibility; repurchase, reimbursement or denial shall be due to a failure of the Loan to meet requirements specified in the Manual at the time of Countrywide's purchase of the Loan from Seller.
  - (4) If the first payment due Countrywide is not received by Countrywide, whether from the borrower directly or forwarded by Seller if the Borrower has submitted the payment to Seller, by the last day of the month in which it is due, and, in addition, at any time within the first twelve months after the Loan has been purchased by Countrywide, the Borrower is 90 days delinquent with respect to a monthly payment. For this purpose a Borrower shall be considered to be 90 days delinquent on a monthly payment if it is not received by Countrywide by the last day of the third month, regardless of the number of days in the month. For example, if the Borrower has not made his/her January payment by the last day of March, the Borrower shall be considered 90 days delinquent with respect to the January payment. Seller shall not have the right to advance funds for or on behalf of a Borrower for any delinquent payment or to otherwise make funds available to any Borrower to avoid or cure a default by the Borrower. A payment for which Countrywide deducted funds at the time it purchased the Loan from Seller shall not be considered the first payment due Countrywide.
  - (5) Seller fails to observe or perform or breaches in any material respect any of the representations, warranties or agreements contained in this Agreement or the Manual with respect to a particular Loan.
  - (6) With respect solely to VA Loans purchased by Countrywide pursuant to an Assignment of Trade Addendum to this Agreement or on a Direct Trade basis pursuant to a Direct Trade Addendum to this Agreement, if the Loan goes into foreclosure within 24 months from the date of sale of the Loan to Countrywide as to those Loans with full guarantees from the VA and 48 months from the date of sale of the Loan to Countrywide as to those Loans with partial guarantees from the VA and as to which the VA gives Countrywide a no-bid instruction in conjunction with the foreclosure sale on such Loan.
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- B. The option to request or accept repurchase of any Loan is at the sole discretion of Countrywide. Notwithstanding that a Seller may be obligated pursuant to the terms of this Section 7 to repurchase a Loan, if such Loan is in compliance with all requirements of this Agreement and the Manual at the time of its purchase by Countrywide and if there is no evidence of fraud or misrepresentation in connection with the Loan, Countrywide, in its sole discretion and on terms determined solely by Countrywide, may consider permitting Seller to indemnify Countrywide against all suits, costs, damages, losses, fees or claims, including without limitation reasonable attorneys' fees, which may be incurred by Countrywide in connection with such Loan. Such indemnification shall be substantially in the form of the applicable Indemnification Agreement, the provisions of which shall include, without limitation, the requirement that the Seller shall pay to Countrywide, at the time that the indemnification Agreement is executed, the amount specified by Countrywide as the amount necessary to cover its projected and potential costs and losses, and including the service release premium paid by Countrywide to the Seller with respect to the Loan.
- C. It is agreed by the parties that Seller's Repurchase Obligation with respect to a Loan shall not be obviated by the fact that the property securing the Loan has been foreclosed upon and said property has been acquired by Countrywide or a third party, it being understood that the term Repurchase Obligation encompasses within its meaning the repurchase of the property from Countrywide if Countrywide has acquired the property, or, if a third party has acquired the property, reimbursing Countrywide in the amount specified in Section 8.C. of this Agreement.

D. It is further agreed by the parties that if Countrywide has made demand on Seller to repurchase a Loan pursuant to Section 7 of this Agreement, Countrywide shall have the right to withhold any monies due Seller in connection with the Loan(s) subject to the Repurchase Obligation or any other Loans until the parties have agreed that the Repurchase Obligation is satisfied.

## 8. REPURCHASE PRICE

A. The repurchase price for Loans subject to a Repurchase Obligation pursuant to Section 7 hereof shall be as follows:

- (1) The current unpaid principal balance of such Loan if it has been pooled or resold. If such loan has not been pooled or resold by Countrywide, the repurchase price shall be at the original price, less principal reduction since the original purchase of the Loan by Countrywide; plus
- (2) All interest accrued but unpaid on the principal balance of the Loan from the paid-to-date of the loan through and including the last day of the month in which the repurchase is made; plus
- (3) All expenses, including but not limited to reasonable fees and expenses of counsel, incurred by Countrywide in enforcing Seller's obligation to repurchase such Loan; plus
- (4) The original servicing release premium paid by Countrywide with respect to such Loan; plus
- (5) Any unreimbursed advances of taxes or insurance made by Countrywide with regard to such Loan as of the date of repurchase; less
- (6) Any proceeds of mortgage insurance with respect to the Loan collected by Countrywide.

Upon any such repurchase of Loans by Seller, Countrywide shall endorse the promissory note (without recourse) and shall assign any security interest (without recourse and in recordable form) to Seller.

B. If the real property security for the Loan has been foreclosed upon and purchased by Countrywide at the foreclosure sale, then the repurchase price pursuant to Section 7 hereof, notwithstanding the amount of Countrywide's credit bid, shall be:

- (1) The current unpaid principal balance of such Loan if it has been pooled or resold. If such loan has not been pooled or resold by Countrywide, the repurchase price shall be at the original price, less principal reduction since the original purchase of the Loan by Countrywide; plus
- (2) All interest accrued but unpaid on the principal balance of the Loan from the paid-to-date of the loan through and including the last day of the Month in which the foreclosure sale occurs; plus
- (3) All costs and expenses, including but not limited to reasonable fees and expenses of counsel, incurred by Countrywide in connection with the foreclosure and in enforcing Seller's Repurchase Obligations hereunder; plus
- (4) The original servicing release premium paid by Countrywide with regard to such Loan; plus
- (5) Any unreimbursed advances of taxes or insurance made by Countrywide with regard to such Loan as of the date of repurchase; plus
- (6) Interest on the amounts set forth in paragraphs (1) through (5) above at the Loan rate from the end of the month in which the foreclosure sale occurred until and including the date of repurchase by Seller; less
- (7) Any proceeds of mortgage insurance collected by Countrywide with respect to the Loan.

Upon payment of the repurchase price, Countrywide shall transfer title to the property securing such Loan to Seller.

C. If the real property security for the Loan has been sold at foreclosure and purchased by a third party, the amount Seller shall pay Countrywide to fulfill its Repurchase Obligation pursuant to Section 7 of this Agreement shall be as follows:

- (1) The current unpaid principal balance of such Loan if it has been pooled or resold. If such loan has not been pooled or resold by Countrywide, the repurchase price shall be at the original price, less principal reduction since the original purchase of the Loan by Countrywide; plus

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- (2) All interest accrued but unpaid on the principal balance of the Loan from the paid-to-date of the loan through and including the last day of the month in which the foreclosure sale occurs; plus
  - (3) All costs and expenses, including but not limited to reasonable fees and expenses of counsel, incurred by Countrywide in enforcing Seller's Repurchase Obligations hereunder; plus
  - (4) The original servicing release premium paid by Countrywide with regard to such Loan; plus
  - (5) Any unreimbursed advances of taxes or insurance made by Countrywide with regard to such Loan as of the date of repurchase; plus
  - (6) Interest on the amounts set forth in paragraphs (1) through (5) above at the Loan rate from the end of the month in which the foreclosure sale occurred until and including the date of repurchase by Seller; less
  - (7) The net proceeds of the foreclosure sale (sale price minus costs and expenses, including but not limited to reasonable fees and expenses of counsel, incurred by Countrywide in connection with the foreclosure sale); less
  - (8) Any proceeds of mortgage insurance collected by Countrywide in connection with the Loan.

## 9. HOLD HARMLESS

A. Seller shall hold Countrywide harmless and shall indemnify Countrywide from and against any and all suits, costs, damages, losses, fees or claims, including without limitation reasonable attorney's fees ("Loss"), arising out of or in connection with any negligence, fraud or a material omission on the part of Seller in receiving, processing or funding any Loan committed to Countrywide for sale under Section 2 above, during the origination period and

Commitment Period up to and including the date the Loan is purchased by Countrywide. Seller's obligation to Countrywide in this regard shall remain effective after Countrywide's purchase of the Loan if the Loss arose prior to purchase but was undetected at time of purchase. This paragraph shall not modify Seller's obligations contained elsewhere in this Agreement.

- B. Seller shall also hold Countrywide harmless and shall indemnify Countrywide from and against any and all suits, costs, damages, fees or claims, including without limitation reasonable attorneys' fees, arising out of or in connection with any one or more of the items set forth in paragraphs (1) through (6) of Section 7A. of this Agreement.

## **10. NO SOLICITATION**

Loans sold to Countrywide cannot be solicited by Seller for refinance for a period of 12 months from the date the Loan is purchased by Countrywide. Borrowers requesting a refinance from Seller within the 12 month period must be referred to Countrywide or, provided the refinanced loan meets all Countrywide requirements as specified in the Manual, may be processed by the Seller and sold to Countrywide for a service release premium, if any, to be negotiated by the parties.

## **11. PROHIBITION AGAINST USE OF NAME OR AFFILIATION**

Seller shall not hold itself out as a joint venturer, partner, representative, employee or agent of Countrywide. Nor shall it use Countrywide's name in any advertising or written or broadcast material without Countrywide's express prior written consent. This prohibition shall not prevent Seller from using any advertising media provided to it by Countrywide for use by Seller and containing any copyrighted Countrywide name or logo. Such copyrighted name or logo shall remain in place.

## **12. TERMINATION – SUSPENSION**

- A. This Agreement may be terminated as to future commitments for sale of Loans by either party at any time, but such termination shall not in any respect change or modify the obligation of Seller with respect to Loans already subject to a Commitment. The effective time of termination shall be the earlier of the time written notice is actually received by the other party or five days after written notice is posted in the United States Postal Service by the canceling party. Termination of this Agreement shall not in any way affect either Seller's or Countrywide's obligations, representations, warranties or indemnifications with respect to Loans already purchased by Countrywide; provided, however, that Countrywide may immediately terminate its obligations hereunder without notice and immediately return to Seller any Loans subject to a Commitment, and Seller shall accept such loans if Countrywide reasonably determines that there has been any deception, fraud, concealment or material misrepresentation by Seller in performing any of its duties, obligations, responsibilities or actions undertaken in connection with this Agreement or in connection with any Loan sold to Countrywide pursuant to this Agreement.
- B. In addition to the termination rights set forth in Paragraph A. above, in the event that Countrywide believes in good faith that Seller has breached an obligation (including a Repurchase Obligation under Section 7), representation, warranty or covenant under the Agreement, or will be unable to fulfill any of its obligations under the Agreement or the Manual (including a Repurchase Obligation under Section 7), Countrywide may, in its sole and absolute discretion, suspend this Agreement as to future Commitments for the sale of Loans by Seller. Such suspension shall be effective immediately upon Seller's receiving written notice of same from Countrywide and shall last until Countrywide, in its sole discretion, determines to reactivate or terminate this Agreement.

## **13. EXHIBITS**

All exhibits attached hereto or material referred to in this Agreement, including the Manual, are incorporated by reference into this Agreement. To the extent there are differences between requirements as stated in the Manual and as stated in this Agreement, the provisions of this Agreement shall govern.

## **14. ENTIRE AGREEMENT**

The entire agreement between the parties is contained in this Agreement and in the Manual and cannot be modified in any respect except by an amendment in writing signed by both parties. The invalidity of any portion of this Agreement shall in no way affect the balance thereof.

## **15. ASSIGNMENT**

Seller may not assign its rights or delegate its duties or obligations under this Agreement without the prior written consent of Countrywide. This Agreement shall be binding on and inure to the benefit of the permitted successors and assigns of the parties hereto.

## **16. ATTORNEYS' FEES AND EXPENSES-CHOICE OF LAW AND FORUM**

If any party hereto shall bring suit or other proceeding against the other as a result of any alleged breach or failure by the other party to fulfill or perform any covenants or obligations under this Agreement, then the prevailing party obtaining final judgment in such action shall be entitled to receive from the non-prevailing party reasonable attorneys' fees incurred by reason of such action and all costs of suit and preparation thereof at both trial and appellate levels. This Agreement shall be governed by and construed and enforced in accordance with applicable federal law and the laws of the State of California. In addition, any such suit or proceeding shall be brought in the federal or state courts located in Los Angeles County, California, which courts shall have sole and exclusive in personam, subject matter and other jurisdiction in connection with such suit or proceedings, and venue shall be appropriate for all purposes in such courts.

## **17. NO REMEDY EXCLUSIVE-WAIVER**

No remedy under this Agreement is exclusive of any other available remedy, but each remedy shall be cumulative and shall be in addition to other remedies given under this Agreement or existing at law or in equity.

Any forbearance by a party to this Agreement in exercising any right or remedy under this Agreement or otherwise afforded by applicable law shall not be a waiver or preclude the exercise of that or any other right or remedy.

## 18. NOTICE

Unless otherwise provided in this Agreement, all notices under this Agreement shall be in writing, deemed effective upon receipt and addressed as indicated below.

TO: Countrywide Home Loans, Inc.  
Correspondent Lending Division  
450 American Street  
Mail Stop No. SV3-51  
Simi Valley, California 93065  
Attention: Vice President of Production

TO: Lender/Seller  
HOME LOAN CENTER  
2010 Main St.  
IRVINE, CA 92614

ACCEPTED BY:

COUNTRYWIDE HOME LOANS, INC.

SELLER: Home Loan Center

By: /s/ Catherine A. Kaiser

By: /s/ Anthony Hsieh

SIGNATURE

SIGNATURE

Name: Catherine A. Kaiser

Name: Anthony Hsieh

Title: Senior Vice President

Title: CEO

Dated: May 15, 2002

Dated: 4/16/02

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### *Addendum to Loan Purchase Agreement*

#### **MANDATORY COMMITMENTS (BULK SALES)**

*This Agreement (the "Addendum") constitutes an Addendum to that Loan Purchase Agreement dated 4-16, 2002 by and between Countrywide Home Loans, Inc., a New York Corporation ("Countrywide"), and Home Loan Center a ("Seller") (the "Agreement").*

This Addendum is for the purpose of setting forth the obligations of the Seller to Countrywide in accordance with Countrywide's mandatory commitment program, which is further described in the Seller's Manual. The terms and conditions of the Loan Purchase Agreement are incorporated herein by reference. This Addendum shall modify, amend, and form a part of the terms of the Agreement. All terms contained herein shall have the same meaning as in the Agreement, unless otherwise defined herein. In the event of any conflict between the terms and conditions of the Agreement and this Addendum as it pertains to the mandatory commitment program, the terms and conditions of this Addendum shall prevail.

#### **GENERAL**

Sellers may elect to deliver loans to Countrywide under the mandatory commitment program by entering into a mandatory delivery commitment (a "Commitment") to deliver a specified amount and type of loan on or before a specified date. Under the mandatory commitment program, the Seller shall be obligated to pay a mark-to-market pair-off fee if the Seller fails to deliver qualifying loans by the date specified in the Commitment (the "Commitment Expiration Date"), in the amount specified in the Commitment (the "Commitment Amount"), or otherwise under the terms provided in the applicable Commitment.

#### **I. PAIR-OFF ASSESSMENT**

Pair-off fees shall be assessed as of the dates and times (the "Pair-Off Assessment Date") provided for:

- (a) as of the date and time that the Seller notifies Countrywide of its election for a reduction of any portion of the Commitment Amount; or
- (b) as of the date and time that the Seller notifies Countrywide of its election for a program substitution as described in the Seller's Manual for any portion of the mandatory commitment (such substitution to be treated as a reduction of the Commitment Amount); or
- (c) as of the close of the Commitment Expiration Date if qualifying loan files are not delivered by seller in an amount equal to the Commitment Amount, less the allowable delivery variance provided for in the Commitment; or
- (d) as of the close of business on such date subsequent to the Commitment Expiration Date that Countrywide determines that a loan delivered by the Commitment Expiration Date was not eligible for purchase.

#### **II. PAIR-OFF CALCULATION AND PAYMENT OF PAIR-OFF FEES**

The pair-off fee shall be assessed and calculated as provided:

- (a) A pair-off fee shall be assessed should the Seller notify Countrywide of its election to pair-off all or a portion of the Commitment Amount prior to the Commitment Expiration Date pursuant to the provisions of paragraphs I(a) and I(b) above. In such event, the Commitment shall be amended to require Seller to deliver, and for Countrywide to purchase, the original Commitment Amount reduced by the amount paired-off by Seller (the "Amended Commitment Amount") with all other terms of the Commitment remaining unchanged. Any such amount which Seller elects to pair-off shall hereinafter be referred to as the "Amount Paired-Off By Seller."

- (b) A pair-off fee shall be assessed should Seller fail to deliver qualifying loans by the Commitment Expiration Date with an aggregate principal balance equal to the Commitment Amount or the Amended Commitment Amount applicable, less the allowable delivery variance provided for in the Commitment. Any such shortfall in the delivery of qualifying loans by the Commitment Expiration Date shall be hereinafter referred to as the "Delivery Shortfall Amount."
- (c) The pair-off fee to be assessed on Amounts Paired-Off by Seller and Delivery Shortfall Amounts shall be calculated by multiplying the Amount Paired-Off by Seller or Delivery Shortfall Amount, as applicable, by a percentage equal to the sum of .125% (the "Administrative Fee"), plus the positive price difference, if any, between the percentage price posted by Countrywide as of the Pair-Off Assessment Date (on the loans which were the subject of the Commitment), and the percentage price to have been paid by Countrywide pursuant to the Commitment. Countrywide's posted percentage price on the Pair-Off Assessment Date shall be determined as follows:
- i. if the Pair-Off Assessment Date is the Commitment Expiration Date, or a subsequent date, pursuant to paragraph I(c) and (d) above, the posted percentage price to be used shall be that percentage price posted by Countrywide



applicable to the earliest delivery option available on such Pair-Off Assessment Date (e.g., the price for a mandatory 2 day delivery).

- ii. If the Pair-Off Assessment Date is earlier than the Commitment Expiration Date pursuant to paragraphs I (a) or I (b), then the posted price to be used shall be the posted mandatory delivery price applicable to the delivery period option which expires closest to, but not after the Commitment Expiration Date. For example, if the Pair-Off Assessment Date is 40 days prior to the Commitment Expiration Date, the posted price to be used for the pair-off fee calculation shall be Countrywide's 29 day mandatory delivery price on the Pair-Off Assessment Date. (for purposes of this example, available mandatory delivery periods are: 2, 7, 15, 29, 45, 60 and 75 days.)

(d) Notwithstanding the provisions of paragraph II (c) above, the administrative fee shall be a minimum of \$100.

(e) The pair-off fees assessed hereunder shall be due and payable within five (5) business days after the Pair-Off Assessment Date. In addition to Countrywide's other remedies, if pair-off fees are not paid within this time period, Seller agrees that Countrywide shall be entitled to net and offset such fees against other amounts owed by Countrywide to Seller.

**AUTHORIZED AGENTS**

The following person(s) have been authorized by appropriate resolution of Seller to execute this Addendum and all documents necessary and appropriate to bind Seller pursuant to the terms of this Addendum. Countrywide may rely on any instructions received from such person(s) and the same shall be fully binding on Seller until such time as Countrywide shall receive written instructions revoking the authority of such person to bind Seller to any future transactions.

1. Anthony Hsieh
2. Tomo Yebisu
3. AJ Yue
4. \_\_\_\_\_

**COUNTRYWIDE HOME LOANS, INC. ("BUYER")**

BY: Catherine A. Kaiser

TITLE: Senior Vice President

DATE: May 15, 2002

**("SELLER")**

BY: /s/ Anthony Hsieh

TITLE: CEO

DATE: 4/16/02

***This Addendum, is made this 16 day of APRIL, 2002 between Countrywide Home Loans, Inc., (“Countrywide”), and HOME LOAN CENTER (“Seller”), to the Loan Purchase Agreement (“LPA”) dated as of 4/16.***

1. For the purposes of the sale of loans secured by liens that are other than senior liens (“Seconds”), including home equity lines of credit (“HELOCs”) and fixed rate loans secured by junior liens, all provisions of the LPA shall be applicable and remain valid, binding and in full force and effect, except as specifically modified herein. For the purposes of the sale of all Loans other than Seconds, the provisions of the LPA as they currently exist without the modifications provided herein shall remain valid, binding and in full force and effect. The provisions in this Addendum shall have no effect upon the applicability of the LPA to Loans other than Seconds.
2. Wherever in the LPA the term “note” is used, the term shall include home equity credit line agreements, and agreements of similar import. Wherever in the LPA the term “manual” is used, the term “Guide” shall be used in its stead.
3. For the purposes of HELOCs, the first sentence of Section 6.A.(3) of the LPA is amended and restated in its entirety as follows: “The full amount of the draw indicated on the Authorization to Pay (as indicated in the Guide) delivered to Lender, and no other amount, has been fully funded to the borrower.”
4. Section 6.A.(9) of the LPA is amended and restated in its entirety as follows: “(9) There is in force for the Loan either (a) a paid-up valid and enforceable lenders title insurance policy on the Loan insuring Seller, its successors and assigns, issued by a Countrywide approved title company, as to the first or second priority lien position, as applicable, in full compliance with all requirements in the Guide, (b) an attorney’s mortgage lien opinion, or (c) if permitted under the requirements specified in the Guide, a title guarantee or title search.”
5. Section 6.A.(18) of the LPA is added to the LPA as follows: “(18) If the Loan is in a second lien position, none of the documents evidencing, securing or otherwise relating to the mortgage loan in first lien position in any way restricts or prohibits the borrower(s) from obtaining the Loan or from creating any of the liens granted as security for the Loan and the Loan does not violate any term or condition imposed by any such document.”
6. Section 6.B.(1) of the LPA is hereby amended and restated in its entirety as follows: “(1) Seller is duly organized, validly existing and in good standing under the laws of its state of incorporation and is qualified and/or licensed as necessary to transact business, including the originating and selling of each Loan, including without limitation, with rates of interest, loan type and other terms provided in the Loan documents, and is in good standing in each state where property securing a Loan is located.”
7. All references in Section 8 of the LPA to “servicing release premium” are replaced with “premium paid to Seller by Countrywide at the time of its purchase of the Loan”.
8. The following is added as Sections 8.A.4a, and 8.B.4a and 8.C.4a: “any un-reimbursed advances made by Countrywide with respect to such Loan, including but not limited to payments authorized by the loan documents or law to protect the security interest; plus”, and Sections 8.A(1), 8.B(1) and 8.C(1) are amended and restated in their entirety as follows: “The repurchase price shall be the original purchase price, less principal reduction made since the Closing Date.”

**The parties hereto do hereby agree to the foregoing as of the date above first written.**

SELLER: Home Loan Center  
a: California Corporation  
BY: /s/ Anthony Hsieh  
SIGNATURE  
NAME: Anthony Hsieh  
TITLE: CEO

COUNTRYWIDE HOME LOANS, INC.  
A NEW YORK CORPORATION  
BY: /s/ Catherine A. Kaiser  
SIGNATURE  
NAME: Catherine A. Kaiser  
TITLE: Senior Vice President



***Addendum to Loan Purchase Agreement - Subprime***

***This Addendum, is made this 16 day of APRIL, 02 between Countrywide Home Loans, Inc., (“Countrywide”) and Home Loan Center (“Seller”) to the Loan Purchase Agreement (“LPA”) dated as of 4/16.***

1. **Definitions.** The terms “Subprime Loan”, “Mortgage Loan Schedule”, “Commitment”, “Commitment Letter”, “Pool Commitment”, “Spot Commitment” and “Closing Date” shall have the meanings set forth therefor in the “Guide” (as defined below).
2. **Commitment to Purchase Loans.** The following is hereby added at the end of the first sentence of Section 2: “except that for the purposes of Subprime Loans, the procedure pursuant to which Seller may commit to sell a Subprime Loan to Countrywide is detailed in the Subprime section of the Guide.”
3. **Representations and Warranties.**
  - A. Section 6.A (7) is amended and restated in its entirety as follows: “All federal and state Laws, rules and regulations applicable to the Loan for its applicable Loan Type have been complied with, including but not limited to: the Real Estate Settlement Procedures Act, the Flood Disaster Protection Act, the Federal Consumer Credit Protection Act including the Truth-in-Lending and Equal Credit Opportunity Acts, the Federal Fair Housing Act,

the Home Ownership and Equity Protection Act of 1994 and all applicable federal and state statutes or regulations governing fraud, lack of consideration, unconscionability, consumer credit transactions, consumer protection, interest or other charges, licensing and mortgage insurance.”

- B. Section 6.B (1) is amended and restated in its entirety as follows: “Seller is duly organized, validly existing and in good standing under the laws of its state of incorporation and is qualified and/or licensed as necessary to transact business, including the originating and selling of each Loan, including without limitation, with rates of interest, loan type and other terms provided in the Loan documents, and is in good standing in each state where property securing a Loan is located.”
- C. Section 6.A (18) is added as follows: “For each Subprime Loan, all information regarding such Subprime Loan in the Confirmation therefor and the Mortgage Loan Schedule attached to such Confirmation is true and correct,”

**4. Purchase Limitation.** The obligation to purchase any Subprime Loans identified in a Confirmation does not extend to any Loans that would violate any representation and warranty by Seller contained in the LPA.

**5. Purchase Price.** The purchase price of each Subprime Loan shall be calculated by multiplying the unpaid principal balance of each Subprime Loan (as adjusted for the borrower’s next payment) on the Closing Date by its applicable purchase price percentage calculated in accordance with the rate sheet at the time of purchase for “Spot” Commitments, or as stated in the Commitment letter for “Pool” Commitments (the “**Purchase Price**”). If a borrower’s payment is due 15 days or earlier after the Closing Date (an “Early Payment”), the portion of such payment attributable to principal shall be deducted from the unpaid principal balance for calculating the Purchase Price. Seller shall then retain borrower’s Early Payment when made. The purchase proceeds paid by Countrywide to Seller shall consist of the Purchase Price plus accrued interest as of the Closing Date and less (i) any positive escrow balances, and (ii) any amounts actually owed and paid by Seller for Mortgage Loan tax service contracts and flood certification determinations which are transferable and transferred to Countrywide on the Closing Date. Without limitation on Countrywide’s other rights herein, the Purchase Price is subject to change if it is determined that the loan characteristics of the Subprime Loan to be purchased differ from the characteristics represented on the Mortgage Loan Schedule

**6. Premium Recapture.** Should any Borrower prepay a Subprime Loan during the twelve month period following Countrywide’s purchase of the loan, Seller shall reimburse Countrywide, upon demand, some or all of the purchase price premium above par paid by Countrywide. The reimbursement shall be calculated using the following formula for “Spot” commitments and “Pool” commitments unless stated otherwise in the “Pool” commitment letter:

$$\text{Purchase Price Premium paid by Countrywide} \times \text{12 minus the number of months expired since the date of purchase 12} - \text{Prepay Penalty} = \text{Premium Refund}$$

**7. Seller’s Repurchase Obligations.** Section 7.A (4) is amended and restated in its entirety as follows; “If the first payment due Countrywide is not received by Countrywide, whether from the borrower directly or forwarded by Seller if the Borrower has submitted the payment to Seller, within 90 days of the first payment due Countrywide. For this purpose a Borrower shall be considered to be 90 days delinquent with respect to the first monthly payment due Countrywide if the payment is not received by Countrywide



within three months of the payment due date, regardless of the number of days in the month. For example, if the due date of the first payment due to Countrywide is January 15th and the Borrower has not made his/her January 15th payment by April 14th, the Borrower shall be considered 90 days delinquent with respect to the January 15th payment. Seller shall not have the right to advance funds for or on behalf of a Borrower for any delinquent payment or to otherwise make funds available to any Borrower to avoid or cure a default by the Borrower. A payment for which Countrywide deducted funds at the time it purchased the Loan from Seller shall not be considered the first payment due Countrywide,”

**8. Repurchase Price.** For the purposes of determining the repurchase price of a Subprime Loan, Sections 8.A(4), 8.B(4) and 8.C(4) are deleted, and Sections 8.A(1), 8.B(1) and 8.C(1) are amended and restated in their entirety as follows: “The repurchase price shall be the original Purchase Price (as defined in this Addendum), less principal reduction made since the Closing Date.”

**9. Sellers Guide.** All references to “Countrywide’s Correspondent Lender Division Loan Purchase Program Seller’s Manual” or “Manual” throughout the LPA are replaced with “Countrywide’s Correspondent Lending Seller’s Guide” or “Guide”, respectfully. Seller acknowledges receipt of the Guide, which may be amended, modified or supplemented from time to time by Countrywide, in its sole and absolute discretion, which amendments, modifications or supplements shall be effective upon Countrywide’s sending the same to Seller.

**10. Brokers.** Neither party has employed or otherwise engaged, nor shall employ, or otherwise engage, any broker or finder in connection with the negotiation or execution of the LPA, this Addendum or any Commitment, nor with respect to the transactions contemplated by this Addendum, in such a manner as to give rise to any claim, against any party, for any brokerage commission, finder’s fee or similar payment. Each party shall indemnify and defend the other party for any claims for brokerage commission, finder’s fee or similar payment based upon statements or agreements alleged to have been made by the indemnifying party.

**11. LPA Terms.** All provisions of the LPA shall be applicable and remain valid, binding and in full force and effect, except as specifically modified herein.

**The parties hereto do hereby agree to the foregoing as of the date above first written.**

**SELLER:**

Home Loan Center

a: California Corporation

By: /s/ Anthony Hsieh

**COUNTRYWIDE:**

COUNTRYWIDE HOME LOANS, INC.

A NEW YORK CORPORATION

By: /s/ Catherine A. Kaiser

SIGNATURE

Name: Anthony Hsieh

Title: CEO

SIGNATURE

Name: Catherine A. Kaiser

Title: Senior Vice President

**TREE.COM, INC.**  
**2008 STOCK AND ANNUAL INCENTIVE PLAN**

**SECTION 1. Purpose; Definition**

The purpose of this Plan is (a) to give the Company a competitive advantage in attracting, retaining and motivating officers, employees, directors and/or consultants and to provide the Company and its Subsidiaries and Affiliates with a stock and incentive plan providing incentives directly linked to stockholder value and (b) to assume and govern other awards pursuant to the adjustment of awards granted under any IAC Long Term Incentive Plan (as defined in the Employee Matters Agreement) in accordance with the terms of the Employee Matters Agreement (“*Adjusted Awards*”). Certain terms used herein have definitions given to them in the first place in which they are used. In addition, for purposes of this Plan, the following terms are defined as set forth below:

- (a) “*Affiliate*” means a corporation or other entity controlled by, controlling or under common control with, the Company.
- (b) “*Applicable Exchange*” means Nasdaq or such other securities exchange as may at the applicable time be the principal market for the Common Stock.
- (c) “*Award*” means an Option, Stock Appreciation Right, Restricted Stock, Restricted Stock Unit, or other stock-based award granted or assumed pursuant to the terms of this Plan, including Adjusted Awards.
- (d) “*Award Agreement*” means a written or electronic document or agreement setting forth the terms and conditions of a specific Award.
- (e) “*Beneficial Ownership*” shall have the meaning given in Rule 13d-3 promulgated under the Exchange Act.
- (f) “*Board*” means the Board of Directors of the Company.
- (g) “*Bonus Award*” means a bonus award made pursuant to Section 9.
- (h) “*Cause*” means, unless otherwise provided in an Award Agreement, (i) “*Cause*” as defined in any Individual Agreement to which the applicable Participant is a party, or (ii) if there is no such Individual Agreement or if it does not define Cause: (A) the willful or gross neglect by a Participant of his employment duties; (B) the plea of guilty or *nolo contendere* to, or conviction for, the commission of a felony offense by a Participant; (C) a material breach by a Participant of a fiduciary duty owed to the Company or any of its subsidiaries; (D) a material breach by a Participant of any nondisclosure, non-solicitation or non-competition obligation owed to the Company or any of its Affiliates; or (E) before a Change in Control, such other events as shall be determined by the Committee and set forth in a Participant’s Award Agreement. Notwithstanding the general rule of Section 2(c), following a Change in Control, any determination by the Committee as to whether “*Cause*” exists shall be subject to *de novo* review.

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- (i) “*Change in Control*” has the meaning set forth in Section 10(c).
- (j) “*Code*” means the Internal Revenue Code of 1986, as amended from time to time, and any successor thereto, the Treasury Regulations thereunder and other relevant interpretive guidance issued by the Internal Revenue Service or the Treasury Department. Reference to any specific section of the Code shall be deemed to include such regulations and guidance, as well as any successor provision of the Code.
- (k) “*Commission*” means the Securities and Exchange Commission or any successor agency.
- (l) “*Committee*” has the meaning set forth in Section 2(a).
- (m) “*Common Stock*” means common stock, par value \$0.01 per share, of the Company.
- (n) “*Company*” means Tree.com, Inc., a Delaware corporation, or its successor.
- (o) “*Disability*” means (i) “*Disability*” as defined in any Individual Agreement to which the Participant is a party, or (ii) if there is no such Individual Agreement or it does not define “*Disability*,” (A) permanent and total disability as determined under the Company’s long-term disability plan applicable to the Participant, or (B) if there is no such plan applicable to the Participant or the Committee determines otherwise in an applicable Award Agreement, “*Disability*” as determined by the Committee. Notwithstanding the above, with respect to an Incentive Stock Option, Disability shall mean Permanent and Total Disability as defined in Section 22(e)(3) of the Code and, with respect to all Awards, to the extent required by Section 409A of the Code, “*disability*” within the meaning of Section 409A of the Code.
- (p) “*Disaffiliation*” means a Subsidiary’s or Affiliate’s ceasing to be a Subsidiary or Affiliate for any reason (including, without limitation, as a result of a public offering, or a spinoff or sale by the Company, of the stock of the Subsidiary or Affiliate) or a sale of a division of the Company and its Affiliates.
- (q) “*EBITA*” means for any period, operating profit (loss) plus (i) amortization, including goodwill impairment, (ii) amortization of non-cash distribution and marketing expense and non-cash compensation expense, (iii) restructuring charges, (iv) non-cash write-downs of assets or goodwill, (v) charges relating to disposal of lines of business, (vi) litigation settlement amounts and (vii) costs incurred for proposed and completed acquisitions.
- (r) “*EBITDA*” means for any period, operating profit (loss) plus (i) depreciation and amortization, including goodwill impairment, (ii) amortization of non-cash distribution and marketing expense and non-cash compensation expense, (iii) restructuring charges, (iv) non-cash write-downs of assets or goodwill, (v) charges relating to disposal of lines of business, (vi) litigation settlement amounts and (vii) costs incurred for proposed and completed acquisitions.

(s) “*Eligible Individuals*” means directors, officers, employees and consultants of the Company or any of its Subsidiaries or Affiliates, and prospective employees and consultants who have accepted offers of employment or consultancy from the Company or its Subsidiaries or Affiliates.

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(t) “*Employee Matters Agreement*” means the Employee Matters Agreement by and among IAC, Ticketmaster, Interval Leisure Group, Inc., HSN, Inc. and Tree.com, Inc.

(u) “*Exchange Act*” means the Securities Exchange Act of 1934, as amended from time to time, and any successor thereto.

(v) “*Fair Market Value*” means, unless otherwise determined by the Committee, the closing price of a share of Common Stock on the Applicable Exchange on the date of measurement, or if Shares were not traded on the Applicable Exchange on such measurement date, then on the next preceding date on which Shares were traded, all as reported by such source as the Committee may select. If the Common Stock is not listed on a national securities exchange, Fair Market Value shall be determined by the Committee in its good faith discretion, taking into account, to the extent appropriate, the requirements of Section 409A of the Code.

(w) “*Free-Standing SAR*” has the meaning set forth in Section 5(b).

(x) “*Grant Date*” means (i) the date on which the Committee by resolution selects an Eligible Individual to receive a grant of an Award and determines the number of Shares to be subject to such Award or the formula for earning a number of shares or cash amount, (ii) such later date as the Committee shall provide in such resolution or (iii) the initial date on which an Adjusted Award was granted under the IAC Long Term Incentive Plan.

(y) “*Group*” shall have the meaning given in Section 13(d)(3) and 14(d)(2) of the Exchange Act.

(z) “*IAC*” means IAC/InterActiveCorp, a Delaware corporation.

(aa) “*Incentive Stock Option*” means any Option that is designated in the applicable Award Agreement as an “incentive stock option” within the meaning of Section 422 of the Code, and that in fact so qualifies.

(bb) “*Individual Agreement*” means an employment, consulting or similar agreement between a Participant and the Company or one of its Subsidiaries or Affiliates.

(cc) “*Nasdaq*” means the National Association of Securities Dealers Inc. Automated Quotation System.

(dd) “*Nonqualified Option*” means any Option that is not an Incentive Stock Option.

(ee) “*Option*” means an Award granted under Section 5.

(ff) “*Participant*” means an Eligible Individual to whom an Award is or has been granted.

(gg) “*Performance Goals*” means the performance goals established by the Committee in connection with the grant of Restricted Stock, Restricted Stock Units or Bonus Awards or other stock-based awards. In the case of Qualified-Performance Based Awards, (i) such goals shall be based on the attainment of one or any combination of the following: specified levels of

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earnings per share from continuing operations, net profit after tax, EBITDA, EBITA, gross profit, cash generation, unit volume, market share, sales, asset quality, earnings per share, operating income, revenues, return on assets, return on operating assets, return on equity, profits, total stockholder return (measured in terms of stock price appreciation and/or dividend growth), cost saving levels, marketing-spending efficiency, core non-interest income, change in working capital, return on capital, and/or stock price, with respect to the Company or any Subsidiary, Affiliate, division or department of the Company and (ii) such Performance Goals shall be set by the Committee within the time period prescribed by Section 162(m) of the Code and related regulations. Such Performance Goals also may be based upon the attaining of specified levels of Company, Subsidiary, Affiliate or divisional performance under one or more of the measures described above relative to the performance of other entities, divisions or subsidiaries.

(hh) “*Plan*” means this Tree.com, Inc. 2008 Stock and Annual Incentive Plan, as set forth herein and as hereafter amended from time to time.

(ii) “*Plan Year*” means the calendar year or, with respect to Bonus Awards, the Company’s fiscal year if different.

(jj) “*Qualified Performance-Based Award*” means an Award intended to qualify for the Section 162(m) Exemption, as provided in Section 11.

(kk) “*Restricted Stock*” means an Award granted under Section 6.

(ll) “*Restricted Stock Units*” means an Award granted under Section 7.

(mm) “*Resulting Voting Power*” shall mean the outstanding combined voting power of the then outstanding voting securities entitled to vote generally in the election of directors (or equivalent governing body, if applicable) of the entity resulting from a Business Combination (including, without limitation, an entity which as a result of such transaction owns the Company or all or substantially all of the Company’s assets either directly or through one or more subsidiaries).

(nn) “*Retirement*” means retirement from active employment with the Company, a Subsidiary or Affiliate at or after the Participant’s attainment of age 65.

(oo) “*Section 162(m) Exemption*” means the exemption from the limitation on deductibility imposed by Section 162(m) of the Code that is set forth in Section 162(m)(4)(C) of the Code.

(pp) “*Separation*” has the meaning set forth in the Employee Matters Agreement.

(qq) “*Share*” means a share of Common Stock.

(rr) “*Stock Appreciation Right*” has the meaning set forth in Section 5(b).

(ss) “*Subsidiary*” means any corporation, partnership, joint venture, limited liability company or other entity during any period in which at least a 50% voting or profits interest is owned, directly or indirectly, by the Company or any successor to the Company.

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(tt) “*Tandem SAR*” has the meaning set forth in Section 5(b).

(uu) “*Term*” means the maximum period during which an Option or Stock Appreciation Right may remain outstanding, subject to earlier termination upon Termination of Employment or otherwise, as specified in the applicable Award Agreement.

(vv) “*Termination of Employment*” means the termination of the applicable Participant’s employment with, or performance of services for, the Company and any of its Subsidiaries or Affiliates. Unless otherwise determined by the Committee, if a Participant’s employment with, or membership on a board of directors of the Company and its Affiliates terminates but such Participant continues to provide services to the Company and its Affiliates in a non-employee director capacity or as an employee, as applicable, such change in status shall not be deemed a Termination of Employment. A Participant employed by, or performing services for, a Subsidiary or an Affiliate or a division of the Company and its Affiliates shall be deemed to incur a Termination of Employment if, as a result of a Disaffiliation, such Subsidiary, Affiliate, or division ceases to be a Subsidiary, Affiliate or division, as the case may be, and the Participant does not immediately thereafter become an employee of (or service provider for), or member of the board of directors of, the Company or another Subsidiary or Affiliate. Temporary absences from employment because of illness, vacation or leave of absence and transfers among the Company and its Subsidiaries and Affiliates shall not be considered Terminations of Employment. Notwithstanding the foregoing, with respect to any Award that constitutes “nonqualified deferred compensation” within the meaning of Section 409A of the Code, “Termination of Employment” shall mean a “separation from service” as defined under Section 409A of the Code. For the avoidance of doubt, the Separation shall not constitute a Termination of Employment for purposes of any Adjusted Award.

## SECTION 2. Administration

(a) *Committee*. The Plan shall be administered by the Compensation Committee of the Board or such other committee of the Board as the Board may from time to time designate (the “Committee”), which shall be composed of not less than two directors, and shall be appointed by and serve at the pleasure of the Board. The Committee shall, subject to Section 11, have plenary authority to grant Awards pursuant to the terms of the Plan to Eligible Individuals. Among other things, the Committee shall have the authority, subject to the terms and conditions of the Plan and the Employee Matters Agreement (including the original terms of the grant of the Adjusted Award):

(i) to select the Eligible Individuals to whom Awards may from time to time be granted;

(ii) to determine whether and to what extent Incentive Stock Options, Nonqualified Options, Stock Appreciation Rights, Restricted Stock, Restricted Stock Units, other stock-based awards, or any combination thereof, are to be granted hereunder;

(iii) to determine the number of Shares to be covered by each Award granted hereunder;

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(iv) to determine the terms and conditions of each Award granted hereunder, based on such factors as the Committee shall determine;

(v) subject to Section 12, to modify, amend or adjust the terms and conditions of any Award;

(vi) to adopt, alter and repeal such administrative rules, guidelines and practices governing the Plan as it shall from time to time deem advisable;

(vii) subject to Section 11, to accelerate the vesting or lapse of restrictions of any outstanding Award, based in each case on such considerations as the Committee in its sole discretion determines;

(viii) to interpret the terms and provisions of the Plan and any Award issued under the Plan (and any agreement relating thereto);

(ix) to establish any “blackout” period that the Committee in its sole discretion deems necessary or advisable;

(x) to determine whether, to what extent, and under what circumstances cash, Shares, and other property and other amounts payable with respect to an Award under this Plan shall be deferred either automatically or at the election of the Participant;

(xi) to decide all other matters that must be determined in connection with an Award; and

(xii) to otherwise administer the Plan.

(b) *Procedures*.

(i) The Committee may act only by a majority of its members then in office, except that the Committee may, except to the extent prohibited by applicable law or the listing standards of the Applicable Exchange and subject to Section 11, allocate all or any portion of its responsibilities and powers to any one or more of its members and may delegate all or any part of its responsibilities and powers to any person or persons selected by it.

(ii) Subject to Section 11(c), any authority granted to the Committee may also be exercised by the full Board. To the extent that any permitted action taken by the Board conflicts with action taken by the Committee, the Board action shall control.

(c) *Discretion of Committee.* Subject to Section 1(h), any determination made by the Committee or by an appropriately delegated officer pursuant to delegated authority under the provisions of the Plan with respect to any Award shall be made in the sole discretion of the Committee or such delegate at the time of the grant of the Award or, unless in contravention of any express term of the Plan, at any time thereafter. All decisions made by the Committee or any appropriately delegated officer pursuant to the provisions of the Plan shall be final and binding on all persons, including the Company, Participants, and Eligible Individuals.

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(d) *Award Agreements.* The terms and conditions of each Award, as determined by the Committee, shall be set forth in an Award Agreement, which shall be delivered to the Participant receiving such Award upon, or as promptly as is reasonably practicable following, the grant of such Award. The effectiveness of an Award shall not be subject to the Award Agreement's being signed by the Company and/or the Participant receiving the Award unless specifically so provided in the Award Agreement. Award Agreements may be amended only in accordance with Section 12 hereof.

### **SECTION 3. Common Stock Subject to Plan**

(a) *Plan Maximums.* The maximum number of Shares that may be delivered pursuant to Awards under the Plan shall be the sum of (a) the number of Shares that may be issuable upon exercise or vesting of the Adjusted Awards and (b) 2,200,000. The maximum number of Shares that may be granted pursuant to Options intended to be Incentive Stock Options shall be 1,466,666 Shares. Shares subject to an Award under the Plan may be authorized and unissued Shares or may be treasury Shares.

(b) *Individual Limits.* No Participant may be granted Awards covering in excess of 1,466,666 Shares during the term of the Plan; *provided* that Adjusted Awards shall not be subject to this limitation.

(c) *Rules for Calculating Shares Delivered.*

(i) With respect to Awards other than Adjusted Awards, to the extent that any Award is forfeited, or any Option and the related Tandem SAR (if any) or Free-Standing SAR terminates, expires or lapses without being exercised, or any Award is settled for cash, the Shares subject to such Awards not delivered as a result thereof shall again be available for Awards under the Plan.

(ii) With respect to Awards other than Adjusted Awards, if the exercise price of any Option and/or the tax withholding obligations relating to any Award are satisfied by delivering Shares to the Company (by either actual delivery or by attestation), only the number of Shares issued net of the Shares delivered or attested to shall be deemed delivered for purposes of the limits set forth in Section 3(a). To the extent any Shares subject to an Award are withheld to satisfy the exercise price (in the case of an Option) and/or the tax withholding obligations relating to such Award, such Shares shall not be deemed to have been delivered for purposes of the limits set forth in Section 3(a).

(d) *Adjustment Provision.* In the event of a merger, consolidation, acquisition of property or shares, stock rights offering, liquidation, Disaffiliation, or similar event affecting the Company or any of its Subsidiaries (each, a "Corporate Transaction"), the Committee or the Board may in its discretion make such substitutions or adjustments as it deems appropriate and equitable to (i) the aggregate number and kind of Shares or other securities reserved for issuance and delivery under the Plan, (ii) the various maximum limitations set forth in Sections 3(a) and 3(b) upon certain types of Awards and upon the grants to individuals of certain types of Awards, (iii) the number and kind of Shares or other securities subject to outstanding Awards; and (iv) the exercise price of outstanding Options and Stock Appreciation Rights. In the event of a stock

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dividend, stock split, reverse stock split, separation, spinoff, reorganization, extraordinary dividend of cash or other property, share combination, or recapitalization or similar event affecting the capital structure of the Company (each, a "Share Change"), the Committee or the Board shall make such substitutions or adjustments as it deems appropriate and equitable to (i) the aggregate number and kind of Shares or other securities reserved for issuance and delivery under the Plan, (ii) the various maximum limitations set forth in Sections 3(a) and 3(b) upon certain types of Awards and upon the grants to individuals of certain types of Awards, (iii) the number and kind of Shares or other securities subject to outstanding Awards; and (iv) the exercise price of outstanding Options and Stock Appreciation Rights. In the case of Corporate Transactions, such adjustments may include, without limitation, (1) the cancellation of outstanding Awards in exchange for payments of cash, property or a combination thereof having an aggregate value equal to the value of such Awards, as determined by the Committee or the Board in its sole discretion (it being understood that in the case of a Corporate Transaction with respect to which stockholders of Common Stock receive consideration other than publicly traded equity securities of the ultimate surviving entity, any such determination by the Committee that the value of an Option or Stock Appreciation Right shall for this purpose be deemed to equal the excess, if any, of the value of the consideration being paid for each Share pursuant to such Corporate Transaction over the exercise price of such Option or Stock Appreciation Right shall conclusively be deemed valid); (2) the substitution of other property (including, without limitation, cash or other securities of the Company and securities of entities other than the Company) for the Shares subject to outstanding Awards; and (3) in connection with any Disaffiliation, arranging for the assumption of Awards, or replacement of Awards with new awards based on other property or other securities (including, without limitation, other securities of the Company and securities of entities other than the Company), by the affected Subsidiary, Affiliate, or division or by the entity that controls such Subsidiary, Affiliate, or division following such Disaffiliation (as well as any corresponding adjustments to Awards that remain based upon Company securities). The Committee may adjust in its sole discretion the Performance Goals applicable to any Awards to reflect any Share Change and any Corporate Transaction and any unusual or non-recurring events and other extraordinary items, impact of charges for restructurings, discontinued operations, and the cumulative effects of accounting or tax changes, each as defined by generally accepted accounting principles or as identified in the Company's financial statements, notes to the financial statements, management's discussion and analysis or the Company's other SEC filings, *provided* that in the case of

Performance Goals applicable to any Qualified Performance-Based Awards, such adjustment does not violate Section 162(m) of the Code. Any adjustment under this Section 3(d) need not be the same for all Participants.

(e) *Section 409A.* Notwithstanding the foregoing: (i) any adjustments made pursuant to Section 3(d) to Awards that are considered “deferred compensation” within the meaning of Section 409A of the Code shall be made in compliance with the requirements of Section 409A of the Code; (ii) any adjustments made pursuant to Section 3(d) to Awards that are not considered “deferred compensation” subject to Section 409A of the Code shall be made in such a manner as to ensure that after such adjustment, the Awards either (A) continue not to be subject to Section 409A of the Code or (B) comply with the requirements of Section 409A of the Code; and (iii) in any event, neither the Committee nor the Board shall have the authority to make any adjustments pursuant to Section 3(d) to the extent the existence of such authority would cause an Award that

is not intended to be subject to Section 409A of the Code at the Grant Date to be subject thereto as of the Grant Date.

#### **SECTION 4. Eligibility**

Awards may be granted under the Plan to Eligible Individuals and, with respect to Adjusted Awards, in accordance with the terms of the Employee Matters Agreement; *provided, however*, that Incentive Stock Options may be granted only to employees of the Company and its subsidiaries or parent corporation (within the meaning of Section 424(f) of the Code) and, with respect to Adjusted Awards that are intended to qualify as incentive stock options within the meaning of Section 421 of the Code, in accordance with the terms of the Employee Matters Agreement.

#### **SECTION 5. Options and Stock Appreciation Rights**

With respect to Adjusted Awards, the provisions below will be applicable only to the extent that they are not inconsistent with the Employee Matters Agreement and the terms of the Adjusted Award assumed under the Employee Matters Agreement:

(a) *Types of Options.* Options may be of two types: Incentive Stock Options and Nonqualified Options. The Award Agreement for an Option shall indicate whether the Option is intended to be an Incentive Stock Option or a Nonqualified Option.

(b) *Types and Nature of Stock Appreciation Rights.* Stock Appreciation Rights may be “Tandem SARs,” which are granted in conjunction with an Option, or “Free-Standing SARs,” which are not granted in conjunction with an Option. Upon the exercise of a Stock Appreciation Right, the Participant shall be entitled to receive an amount in cash, Shares, or both, in value equal to the product of (i) the excess of the Fair Market Value of one Share over the exercise price of the applicable Stock Appreciation Right, multiplied by (ii) the number of Shares in respect of which the Stock Appreciation Right has been exercised. The applicable Award Agreement shall specify whether such payment is to be made in cash or Common Stock or both, or shall reserve to the Committee or the Participant the right to make that determination prior to or upon the exercise of the Stock Appreciation Right.

(c) *Tandem SARs.* A Tandem SAR may be granted at the Grant Date of the related Option. A Tandem SAR shall be exercisable only at such time or times and to the extent that the related Option is exercisable in accordance with the provisions of this Section 5, and shall have the same exercise price as the related Option. A Tandem SAR shall terminate or be forfeited upon the exercise or forfeiture of the related Option, and the related Option shall terminate or be forfeited upon the exercise or forfeiture of the Tandem SAR.

(d) *Exercise Price.* The exercise price per Share subject to an Option or Free-Standing SAR shall be determined by the Committee and set forth in the applicable Award Agreement, and shall not be less than the Fair Market Value of a share of the Common Stock on the applicable Grant Date. In no event may any Option or Free-Standing SAR granted under this Plan be amended, other than pursuant to Section 3(d), to decrease the exercise price thereof, be cancelled in conjunction with the grant of any new Option or Free-Standing SAR with a lower exercise price or otherwise be subject to any action that would be treated, for accounting

purposes, as a “repricing” of such Option or Free-Standing SAR, unless such amendment, cancellation, or action is approved by the Company’s stockholders.

(e) *Term.* The Term of each Option and each Free-Standing SAR shall be fixed by the Committee, but shall not exceed ten years from the Grant Date.

(f) *Vesting and Exercisability.* Except as otherwise provided herein, Options and Free-Standing SARs shall be exercisable at such time or times and subject to such terms and conditions as shall be determined by the Committee. If the Committee provides that any Option or Free-Standing SAR will become exercisable only in installments, the Committee may at any time waive such installment exercise provisions, in whole or in part, based on such factors as the Committee may determine. In addition, the Committee may at any time accelerate the exercisability of any Option or Free-Standing SAR.

(g) *Method of Exercise.* Subject to the provisions of this Section 5, Options and Free-Standing SARs may be exercised, in whole or in part, at any time during the applicable Term by giving written notice of exercise to the Company or through the procedures established with the Company’s appointed third-party Option administrator specifying the number of Shares as to which the Option or Free-Standing SAR is being exercised; *provided, however*, that, unless otherwise permitted by the Committee, any such exercise must be with respect to a portion of the applicable Option or Free-Standing SAR relating to no less than the lesser of the number of Shares then subject to such Option or Free-Standing SAR or 100 Shares. In the case of the exercise of an Option, such notice shall be accompanied by payment in full of the purchase price (which shall equal the product of such number of Shares multiplied by the applicable exercise price) by certified or bank check or such other instrument as the Company may accept. If approved by the Committee, payment, in full or in part, may also be made as follows:

(i) Payments may be made in the form of unrestricted Shares (by delivery of such Shares or by attestation) of the same class as the Common Stock subject to the Option already owned by the Participant (based on the Fair Market Value of the Common Stock on the date the Option is exercised); *provided, however*, that, in the case of an Incentive Stock Option, the right to make a payment in the form of already owned Shares of the same class as the Common Stock subject to the Option may be authorized only at the time the Option is granted.

(ii) To the extent permitted by applicable law, payment may be made by delivering a properly executed exercise notice to the Company, together with a copy of irrevocable instructions to a broker to deliver promptly to the Company the amount of sale or loan proceeds necessary to pay the purchase price, and, if requested, the amount of any federal, state, local or foreign withholding taxes. To facilitate the foregoing, the Company may, to the extent permitted by applicable law, enter into agreements for coordinated procedures with one or more brokerage firms. To the extent permitted by applicable law, the Committee may also provide for Company loans to be made for purposes of the exercise of Options.

(iii) Payment may be made by instructing the Company to withhold a number of Shares having a Fair Market Value (based on the Fair Market Value of the Common Stock on the date the applicable Option is exercised) equal to the product of (A) the exercise price multiplied by (B) the number of Shares in respect of which the Option shall have been exercised.

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(h) *Delivery; Rights of Stockholders.* No Shares shall be delivered pursuant to the exercise of an Option until the exercise price therefor has been fully paid and applicable taxes have been withheld. The applicable Participant shall have all of the rights of a stockholder of the Company holding the class or series of Common Stock that is subject to the Option or Stock Appreciation Right (including, if applicable, the right to vote the applicable Shares and the right to receive dividends), when the Participant (i) has given written notice of exercise, (ii) if requested, has given the representation described in Section 14(a), and (iii) in the case of an Option, has paid in full for such Shares.

(i) *Terminations of Employment.* Subject to Section 10, a Participant's Options and Stock Appreciation Rights shall be forfeited upon such Participant's Termination of Employment, except as set forth below:

(i) Upon a Participant's Termination of Employment by reason of death, any Option or Stock Appreciation Right held by the Participant that was exercisable immediately before the Termination of Employment may be exercised at any time until the earlier of (A) the first anniversary of the date of such death and (B) the expiration of the Term thereof;

(ii) Upon a Participant's Termination of Employment by reason of Disability or Retirement, any Option or Stock Appreciation Right held by the Participant that was exercisable immediately before the Termination of Employment may be exercised at any time until the earlier of (A) the first anniversary of such Termination of Employment and (B) the expiration of the Term thereof;

(iii) Upon a Participant's Termination of Employment for Cause, any Option or Stock Appreciation Right held by the Participant shall be forfeited, effective as of such Termination of Employment;

(iv) Upon a Participant's Termination of Employment for any reason other than death, Disability, Retirement or for Cause, any Option or Stock Appreciation Right held by the Participant that was exercisable immediately before the Termination of Employment may be exercised at any time until the earlier of (A) the 90th day following such Termination of Employment and (B) expiration of the Term thereof; and

(v) Notwithstanding the above provisions of this Section 5(i), if a Participant dies after such Participant's Termination of Employment but while any Option or Stock Appreciation Right remains exercisable as set forth above, such Option or Stock Appreciation Right may be exercised at any time until the later of (A) the earlier of (1) the first anniversary of the date of such death and (2) expiration of the Term thereof and (B) the last date on which such Option or Stock Appreciation Right would have been exercisable, absent this Section 5(i)(v).

Notwithstanding the foregoing, the Committee shall have the power, in its discretion, to apply different rules concerning the consequences of a Termination of Employment; *provided, however*, that if such rules are less favorable to the Participant than those set forth above, such rules are set forth in the applicable Award Agreement. If an Incentive Stock Option is exercised after the expiration of the exercise periods that apply for purposes of Section 422 of the Code, such Option will thereafter be treated as a Nonqualified Option.

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(j) *Nontransferability of Options and Stock Appreciation Rights.* No Option or Free-Standing SAR shall be transferable by a Participant other than (i) by will or by the laws of descent and distribution, or (ii) in the case of a Nonqualified Option or Free-Standing SAR, pursuant to a qualified domestic relations order or as otherwise expressly permitted by the Committee including, if so permitted, pursuant to a transfer to the Participant's family members or to a charitable organization, whether directly or indirectly or by means of a trust or partnership or otherwise. For purposes of this Plan, unless otherwise determined by the Committee, "family member" shall have the meaning given to such term in General Instructions A.1(a)(5) to Form S-8 under the Securities Act of 1933, as amended, and any successor thereto. A Tandem SAR shall be transferable only with the related Option as permitted by the preceding sentence. Any Option or Stock Appreciation Right shall be exercisable, subject to the terms of this Plan, only by the applicable Participant, the guardian or legal representative of such Participant, or any person to whom such Option or Stock Appreciation Right is permissibly transferred pursuant to this Section 5(j), it being understood that the term "Participant" includes such guardian, legal representative and other transferee; *provided, however*, that the term "Termination of Employment" shall continue to refer to the Termination of Employment of the original Participant.

## **SECTION 6. Restricted Stock**

With respect to Adjusted Awards, the provisions below will be applicable only to the extent that they are not inconsistent with the Employee Matters Agreement and the terms of the Adjusted Award assumed under the Employee Matters Agreement:

(a) *Nature of Awards and Certificates.* Shares of Restricted Stock are actual Shares issued to a Participant, and shall be evidenced in such manner as the Committee may deem appropriate, including book-entry registration or issuance of one or more stock certificates. Any certificate issued in respect of Shares of Restricted Stock shall be registered in the name of the applicable Participant and, in the case of Restricted Stock, shall bear an appropriate legend referring to the terms, conditions, and restrictions applicable to such Award, substantially in the following form:

"The transferability of this certificate and the shares of stock represented hereby are subject to the terms and conditions (including forfeiture) of the Tree.com, Inc. 2008 Stock and Annual Incentive Plan and an Award Agreement. Copies of such Plan and Agreement are on file at the offices of [Tree.com, Inc., 11115 Rushmore Drive, Charlotte, NC 28277.]"

The Committee may require that the certificates evidencing such shares be held in custody by the Company until the restrictions thereon shall have lapsed and that, as a condition of any Award of Restricted Stock, the applicable Participant shall have delivered a stock power, endorsed in blank, relating to the Common Stock covered by such Award.

(b) *Terms and Conditions.* Shares of Restricted Stock shall be subject to the following terms and conditions:

(i) The Committee shall, prior to or at the time of grant, condition the vesting or transferability of an Award of Restricted Stock upon the continued service of the applicable

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Participant or the attainment of Performance Goals, or the attainment of Performance Goals and the continued service of the applicable Participant. In the event that the Committee conditions the grant or vesting of an Award of Restricted Stock upon the attainment of Performance Goals or the attainment of Performance Goals and the continued service of the applicable Participant, the Committee may, prior to or at the time of grant, designate such an Award as a Qualified Performance-Based Award. The conditions for grant, vesting, or transferability and the other provisions of Restricted Stock Awards (including without limitation any Performance Goals) need not be the same with respect to each Participant.

(ii) Subject to the provisions of the Plan and the applicable Award Agreement, during the period, if any, set by the Committee, commencing with the date of such Restricted Stock Award for which such vesting restrictions apply and until the expiration of such vesting restrictions (the "Restriction Period"), the Participant shall not be permitted to sell, assign, transfer, pledge or otherwise encumber Shares of Restricted Stock.

(iii) Except as provided in this Section 6 and in the applicable Award Agreement, the applicable Participant shall have, with respect to the Shares of Restricted Stock, all of the rights of a stockholder of the Company holding the class or series of Common Stock that is the subject of the Restricted Stock, including, if applicable, the right to vote the Shares and the right to receive any cash dividends. If so determined by the Committee in the applicable Award Agreement and subject to Section 14(e), (A) cash dividends on the class or series of Common Stock that is the subject of the Restricted Stock Award shall be automatically deferred and reinvested in additional Restricted Stock, held subject to the vesting of the underlying Restricted Stock, and (B) subject to any adjustment pursuant to Section 3(d), dividends payable in Common Stock shall be paid in the form of Restricted Stock of the same class as the Common Stock with which such dividend was paid, held subject to the vesting of the underlying Restricted Stock.

(iv) Except as otherwise set forth in the applicable Award Agreement, upon a Participant's Termination of Employment for any reason during the Restriction Period, all Shares of Restricted Stock still subject to restriction shall be forfeited by such Participant; *provided, however*, that subject to Section 11(b), the Committee shall have the discretion to waive, in whole or in part, any or all remaining restrictions with respect to any or all of such Participant's Shares of Restricted Stock.

(v) If and when any applicable Performance Goals are satisfied and the Restriction Period expires without a prior forfeiture of the Shares of Restricted Stock for which legended certificates have been issued, unlegended certificates for such Shares shall be delivered to the Participant upon surrender of the legended certificates.

## **SECTION 7. Restricted Stock Units**

With respect to Adjusted Awards, the provisions below will be applicable only to the extent that they are not inconsistent with the Employee Matters Agreement and the terms of the Adjusted Award assumed under the Employee Matters Agreement:

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(a) *Nature of Awards.* Restricted Stock Units are Awards denominated in Shares that will be settled, subject to the terms and conditions of the Restricted Stock Units, in an amount in cash, Shares or both, based upon the Fair Market Value of a specified number of Shares.

(b) *Terms and Conditions.* Restricted Stock Units shall be subject to the following terms and conditions:

(i) The Committee shall, prior to or at the time of grant, condition the grant, vesting, or transferability of Restricted Stock Units upon the continued service of the applicable Participant or the attainment of Performance Goals, or the attainment of Performance Goals and the continued service of the applicable Participant. In the event that the Committee conditions the grant or vesting of Restricted Stock Units upon the attainment of Performance Goals or the attainment of Performance Goals and the continued service of the applicable Participant, the Committee may, prior to or at the time of grant, designate such Awards as Qualified Performance-Based Awards. The conditions for grant, vesting or transferability and the other provisions of Restricted Stock Units (including without limitation any Performance Goals) need not be the same with respect to each Participant. An Award of Restricted Stock Units shall be settled as and when the Restricted Stock Units vest or at a later time specified by the Committee or in accordance with an election of the Participant, if the Committee so permits.

(ii) Subject to the provisions of the Plan and the applicable Award Agreement, during the period, if any, set by the Committee, commencing with the date of such Restricted Stock Units for which such vesting restrictions apply and until the expiration of such vesting restrictions (the "Restriction Period"), the Participant shall not be permitted to sell, assign, transfer, pledge or otherwise encumber Restricted Stock Units.

(iii) The Award Agreement for Restricted Stock Units shall specify whether, to what extent and on what terms and conditions the applicable Participant shall be entitled to receive current or deferred payments of cash, Common Stock or other property corresponding to the dividends payable on the Common Stock (subject to Section 14(e) below).

(iv) Except as otherwise set forth in the applicable Award Agreement, upon a Participant's Termination of Employment for any reason during the Restriction Period, all Restricted Stock Units still subject to restriction shall be forfeited by such Participant; *provided, however*, that subject to Section 11(b), the Committee shall have the discretion to waive, in whole or in part, any or all remaining restrictions with respect to any or all of such Participant's Restricted Stock Units.

## SECTION 8. Other Stock-Based Awards

Other Awards of Common Stock and other Awards that are valued in whole or in part by reference to, or are otherwise based upon or settled in, Common Stock, including (without limitation), unrestricted stock, performance units, dividend equivalents, and convertible debentures, may be granted under the Plan.

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## SECTION 9. Bonus Awards

(a) *Determination of Awards.* The Committee shall determine the total amount of Bonus Awards for each Plan Year or such shorter performance period as the Committee may establish in its sole discretion. Prior to the beginning of the Plan Year or such shorter performance period as the Committee may establish in its sole discretion (or such later date as may be prescribed by the Internal Revenue Service under Section 162(m) of the Code), the Committee shall establish Performance Goals for Bonus Awards for the Plan Year or such shorter period; *provided*, that such Performance Goals may be established at a later date for Participants who are not “covered employees” (within the meaning of Section 162(m)(3) of the Code). Bonus amounts payable to any individual Participant with respect to a Plan Year will be limited to a maximum of \$10 million. For performance periods that are shorter than a Plan Year, such \$10 million maximum may be pro-rated if so determined by the Committee.

(b) *Payment of Awards.* Bonus Awards under the Plan shall be paid in cash or in shares of Common Stock (valued at Fair Market Value as of the date of payment) as determined by the Committee, as soon as practicable following the close of the Plan Year or such shorter performance period as the Committee may establish. It is intended that a Bonus Award will be paid no later than the fifteenth (15<sup>th</sup>) day of the third month following the later of: (i) the end of the Participant’s taxable year in which the requirements for such Bonus Award have been satisfied by the Participant or (ii) the end of the Company’s fiscal year in which the requirements for such Bonus Award have been satisfied by the Participant. The Committee may at its option establish procedures pursuant to which Participants are permitted to defer the receipt of Bonus Awards payable hereunder. The Bonus Award for any Plan Year or such shorter performance period to any Participant may be reduced or eliminated by the Committee in its discretion.

## SECTION 10. Change in Control Provisions

(a) *Adjusted Awards.* With respect to all Adjusted Awards, subject to paragraph (e) of this Section 10, unless otherwise provided in the applicable Award Agreement, notwithstanding any other provision of this Plan to the contrary, upon a Participant’s Termination of Employment, during the two-year period following a Change in Control, by the Company other than for Cause or Disability or by the Participant for Good Reason (as defined below):

(i) any Options outstanding as of such Termination of Employment which were outstanding as of the date of such Change in Control shall be fully exercisable and vested and shall remain exercisable until the later of (i) the last date on which such Option would be exercisable in the absence of this Section 10(a) and (ii) the earlier of (A) the first anniversary of such Change in Control and (B) expiration of the Term of such Option;

(ii) the restrictions and deferral limitations applicable to any Restricted Stock shall lapse, and such Restricted Stock outstanding as of such Termination of Employment which were outstanding as of the date of such Change in Control shall become free of all restrictions and become fully vested and transferable; and

(iii) all Restricted Stock Units outstanding as of such Termination of Employment which were outstanding as of the date of such Change in Control shall be considered to be earned and payable in full, and any restrictions shall lapse and such Restricted Stock Units shall be

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settled as promptly as is practicable in (subject to Section 3(d)) the form set forth in the applicable Award Agreement.

(b) *Impact of Event on Awards other than Adjusted Awards.* Subject to paragraph (e) of this Section 10, and paragraph (d) of Section 12, unless otherwise provided in any applicable Award Agreement and except as otherwise provided in paragraph (a) of this Section 10, in connection with a Change of Control, the Committee may make such adjustments and/or settlements of outstanding Awards as it deems appropriate and consistent with the Plan’s purposes, including, without limitation, the acceleration of vesting of Awards either upon a Change of Control or upon various terminations of employment following a Change of Control. The Committee may provide for such adjustments as a term of the Award or may make such adjustments following the granting of the Award.

(c) *Definition of Change in Control.* For purposes of the Plan, unless otherwise provided in an option agreement or other agreement relating to an Award, a “Change in Control” shall mean the happening of any of the following events:

(i) The acquisition by any individual, entity or Group (a “Person”), other than the Company, of Beneficial Ownership of equity securities of the Company representing more than 50% of the voting power of the then outstanding equity securities of the Company entitled to vote generally in the election of directors (the “Outstanding Company Voting Securities”); *provided, however*, that any acquisition that would constitute a Change in Control under this subsection (i) that is also a Business Combination shall be determined exclusively under subsection (iii) below; or

(ii) Individuals who, as of the Effective Date, constitute the Board (the “Incumbent Directors”) cease for any reason to constitute at least a majority of the Board; *provided, however*, that any individual becoming a director subsequent to the Effective Date, whose election, or nomination for election by the Company’s stockholders, was approved by a vote of at least a majority of the Incumbent Directors at such time shall become an Incumbent Director, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board; or

(iii) Consummation of a reorganization, merger, consolidation, sale or other disposition of all or substantially all of the assets of the Company, the purchase of assets or stock of another entity, or other similar corporate transaction (a “Business Combination”), in each case, unless immediately

following such Business Combination, (A) more than 50% of the Resulting Voting Power shall reside in Outstanding Company Voting Securities retained by the Company's stockholders in the Business Combination and/or voting securities received by such stockholders in the Business Combination on account of Outstanding Company Voting Securities, and (B) at least a majority of the members of the board of directors (or equivalent governing body, if applicable) of the entity resulting from such Business Combination were Incumbent Directors at the time of the initial agreement, or action of the Board, providing for such Business Combination; or

(iv) Approval by the stockholders of the Company of a complete liquidation or dissolution of the Company.

Notwithstanding the foregoing, the Separation shall not constitute a Change in Control. For the avoidance of doubt, with respect to Adjusted Awards, any reference in an Award Agreement or the applicable IAC Long Term Incentive Plan to a "change in control," "change of control" or similar definition shall be deemed to refer to a Change of Control hereunder.

(d) For purposes of this Section 10, "Good Reason" means (i) "Good Reason" as defined in any Individual Agreement or Award Agreement to which the applicable Participant is a party, or (ii) if there is no such Individual Agreement or if it does not define Good Reason, without the Participant's prior written consent: (A) a material reduction in the Participant's rate of annual base salary from the rate of annual base salary in effect for such Participant immediately prior to the Change in Control, (B) a relocation of the Participant's principal place of business more than 35 miles from the city in which such Participant's principal place of business was located immediately prior to the Change in Control or (C) a material and demonstrable adverse change in the nature and scope of the Participant's duties from those in effect immediately prior to the Change in Control. In order to invoke a Termination of Employment for Good Reason, a Participant shall provide written notice to the Company of the existence of one or more of the conditions described in clauses (A) through (C) within 90 days following the Participant's knowledge of the initial existence of such condition or conditions, and the Company shall have 30 days following receipt of such written notice (the "Cure Period") during which it may remedy the condition. In the event that the Company fails to remedy the condition constituting Good Reason during the Cure Period, the Participant must terminate employment, if at all, within 90 days following the Cure Period in order for such Termination of Employment to constitute a Termination of Employment for Good Reason.

(e) Notwithstanding the foregoing, if any Award is subject to Section 409A of the Code, this Section 10 shall be applicable only to the extent specifically provided in the Award Agreement and as permitted pursuant to Section 14(k).

#### **SECTION 11. Qualified Performance-Based Awards; Section 16(b)**

(a) The provisions of this Plan are intended to ensure that all Options and Stock Appreciation Rights granted hereunder to any Participant who is or may be a "covered employee" (within the meaning of Section 162(m)(3) of the Code) in the tax year in which such Option or Stock Appreciation Right is expected to be deductible to the Company qualify for the Section 162(m) Exemption, and all such Awards shall therefore be considered Qualified Performance-Based Awards and this Plan shall be interpreted and operated consistent with that intention (including, without limitation, to require that all such Awards be granted by a committee composed solely of members who satisfy the requirements for being "outside directors" for purposes of the Section 162(m) Exemption ("Outside Directors")). When granting any Award other than an Option or Stock Appreciation Right, the Committee may designate such Award as a Qualified Performance-Based Award, based upon a determination that (i) the recipient is or may be a "covered employee" (within the meaning of Section 162(m)(3) of the Code) with respect to such Award, and (ii) the Committee wishes such Award to qualify for the Section 162(m) Exemption, and the terms of any such Award (and of the grant thereof) shall be

consistent with such designation (including, without limitation, that all such Awards be granted by a committee composed solely of Outside Directors).

(b) Each Qualified Performance-Based Award (other than an Option or Stock Appreciation Right) shall be earned, vested and payable (as applicable) only upon the achievement of one or more Performance Goals (as certified in writing by the Committee, except if compensation is attributable solely to the increase in the value of the Common Stock), together with the satisfaction of any other conditions, such as continued employment, as the Committee may determine to be appropriate, and no Qualified Performance-Based Award may be amended, nor may the Committee exercise any discretionary authority it may otherwise have under this Plan with respect to a Qualified Performance-Based Award under this Plan, in any manner that would cause the Qualified Performance-Based Award to cease to qualify for the Section 162(m) Exemption; *provided, however*, that (i) the Committee may provide, either in connection with the grant of the applicable Award or by amendment thereafter, that achievement of such Performance Goals will be waived upon the death or Disability of the Participant or under any other circumstance with respect to which the existence of such possible waiver will not cause the Award to fail to qualify for the Section 162(m) Exemption as of the Grant Date, and (ii) the provisions of Section 10 shall apply notwithstanding this Section 11(b).

(c) The full Board shall not be permitted to exercise authority granted to the Committee to the extent that the grant or exercise of such authority would cause an Award designated as a Qualified Performance-Based Award not to qualify for, or to cease to qualify for, the Section 162(m) Exemption.

(d) The provisions of this Plan are intended to ensure that no transaction under the Plan is subject to (and not exempt from) the short-swing recovery rules of Section 16(b) of the Exchange Act ("Section 16(b)"). Accordingly, the composition of the Committee shall be subject to such limitations as the Board deems appropriate to permit transactions pursuant to this Plan to be exempt (pursuant to Rule 16b-3 promulgated under the Exchange Act) from Section 16(b), and no delegation of authority by the Committee shall be permitted if such delegation would cause any such transaction to be subject to (and not exempt from) Section 16(b).

#### **SECTION 12. Term, Amendment and Termination**

(a) *Effectiveness.* The Plan shall be effective as of the date (the "Effective Date") it is adopted by the Board, subject to the approval by the holders of at least a majority of the voting power represented by outstanding capital stock of the Company that is entitled generally to vote in the election of directors.

(b) *Termination.* The Plan will terminate on the tenth anniversary of the Effective Date. Awards outstanding as of such date shall not be affected or impaired by the termination of the Plan.

(c) *Amendment of Plan.* The Board may amend, alter, or discontinue the Plan, but no amendment, alteration or discontinuation shall be made which would materially impair the rights of the Participant with respect to a previously granted Award without such Participant's consent, except such an amendment made to comply with applicable law, including without limitation

Section 409A of the Code, stock exchange rules or accounting rules. In addition, no such amendment shall be made without the approval of the Company's stockholders to the extent such approval is required by applicable law or the listing standards of the Applicable Exchange.

(d) *Amendment of Awards.* Subject to Section 5(d), the Committee may unilaterally amend the terms of any Award theretofore granted, but no such amendment shall cause a Qualified Performance-Based Award to cease to qualify for the Section 162(m) Exemption or without the Participant's consent materially impair the rights of any Participant with respect to an Award, except such an amendment made to cause the Plan or Award to comply with applicable law, stock exchange rules or accounting rules.

### **SECTION 13. Unfunded Status of Plan**

It is presently intended that the Plan constitute an "unfunded" plan for incentive and deferred compensation. The Committee may authorize the creation of trusts or other arrangements to meet the obligations created under the Plan to deliver Common Stock or make payments; *provided, however*, that unless the Committee otherwise determines, the existence of such trusts or other arrangements is consistent with the "unfunded" status of the Plan.

### **SECTION 14. General Provisions**

(a) *Conditions for Issuance.* The Committee may require each person purchasing or receiving Shares pursuant to an Award to represent to and agree with the Company in writing that such person is acquiring the Shares without a view to the distribution thereof. The certificates for such Shares may include any legend which the Committee deems appropriate to reflect any restrictions on transfer. Notwithstanding any other provision of the Plan or agreements made pursuant thereto, the Company shall not be required to issue or deliver any certificate or certificates for Shares under the Plan prior to fulfillment of all of the following conditions: (i) listing or approval for listing upon notice of issuance, of such Shares on the Applicable Exchange; (ii) any registration or other qualification of such Shares of the Company under any state or federal law or regulation, or the maintaining in effect of any such registration or other qualification which the Committee shall, in its absolute discretion upon the advice of counsel, deem necessary or advisable; and (iii) obtaining any other consent, approval, or permit from any state or federal governmental agency which the Committee shall, in its absolute discretion after receiving the advice of counsel, determine to be necessary or advisable.

(b) *Additional Compensation Arrangements.* Nothing contained in the Plan shall prevent the Company or any Subsidiary or Affiliate from adopting other or additional compensation arrangements for its employees.

(c) *No Contract of Employment.* The Plan shall not constitute a contract of employment, and adoption of the Plan shall not confer upon any employee any right to continued employment, nor shall it interfere in any way with the right of the Company or any Subsidiary or Affiliate to terminate the employment of any employee at any time.

(d) *Required Taxes.* No later than the date as of which an amount first becomes includible in the gross income of a Participant for federal, state, local or foreign income or employment or other tax purposes with respect to any Award under the Plan, such Participant

shall pay to the Company, or make arrangements satisfactory to the Company regarding the payment of, any federal, state, local or foreign taxes of any kind required by law to be withheld with respect to such amount. If determined by the Company, withholding obligations may be settled with Common Stock, including Common Stock that is part of the Award that gives rise to the withholding requirement. The obligations of the Company under the Plan shall be conditional on such payment or arrangements, and the Company and its Affiliates shall, to the extent permitted by law, have the right to deduct any such taxes from any payment otherwise due to such Participant. The Committee may establish such procedures as it deems appropriate, including making irrevocable elections, for the settlement of withholding obligations with Common Stock.

(e) *Limitation on Dividend Reinvestment and Dividend Equivalents.* Reinvestment of dividends in additional Restricted Stock at the time of any dividend payment, and the payment of Shares with respect to dividends to Participants holding Awards of Restricted Stock Units, shall only be permissible if sufficient Shares are available under Section 3 for such reinvestment or payment (taking into account then outstanding Awards). In the event that sufficient Shares are not available for such reinvestment or payment, such reinvestment or payment shall be made in the form of a grant of Restricted Stock Units equal in number to the Shares that would have been obtained by such payment or reinvestment, the terms of which Restricted Stock Units shall provide for settlement in cash and for dividend equivalent reinvestment in further Restricted Stock Units on the terms contemplated by this Section 14(e).

(f) *Designation of Death Beneficiary.* The Committee shall establish such procedures as it deems appropriate for a Participant to designate a beneficiary to whom any amounts payable in the event of such Participant's death are to be paid or by whom any rights of such eligible Individual, after such Participant's death, may be exercised.

(g) *Subsidiary Employees.* In the case of a grant of an Award to any employee of a Subsidiary of the Company, the Company may, if the Committee so directs, issue or transfer the Shares, if any, covered by the Award to the Subsidiary, for such lawful consideration as the Committee may specify, upon the condition or understanding that the Subsidiary will transfer the Shares to the employee in accordance with the terms of the Award specified by the Committee pursuant to the provisions of the Plan. All Shares underlying Awards that are forfeited or canceled should revert to the Company.

(h) *Governing Law and Interpretation.* The Plan and all Awards made and actions taken thereunder shall be governed by and construed in accordance with the laws of the State of Delaware, without reference to principles of conflict of laws. The captions of this Plan are not part of the provisions hereof and shall have no force or effect.

(i) *Non-Transferability.* Except as otherwise provided in Section 5(j) or by the Committee, Awards under the Plan are not transferable except by will or by laws of descent and distribution.

(j) *Foreign Employees and Foreign Law Considerations.* The Committee may grant Awards to Eligible Individuals who are foreign nationals, who are located outside the United States or who are not compensated from a payroll maintained in the United States, or who are

otherwise subject to (or could cause the Company to be subject to) legal or regulatory provisions of countries or jurisdictions outside the United States, on such terms and conditions different from those specified in the Plan as may, in the judgment of the Committee, be necessary or desirable to foster and promote achievement of the purposes of the Plan, and, in furtherance of such purposes, the Committee may make such modifications, amendments, procedures, or subplans as may be necessary or advisable to comply with such legal or regulatory provisions.

(k) *Section 409A of the Code.* It is the intention of the Company that no Award shall be “deferred compensation” subject to Section 409A of the Code, unless and to the extent that the Committee specifically determines otherwise as provided in the immediately following sentence, and the Plan and the terms and conditions of all Awards shall be interpreted accordingly. The terms and conditions governing any Awards that the Committee determines will be subject to Section 409A of the Code, including any rules for elective or mandatory deferral of the delivery of cash or Shares pursuant thereto and any rules regarding treatment of such Awards in the event of a Change in Control, shall be set forth in the applicable Award Agreement, and shall comply in all respects with Section 409A of the Code. Notwithstanding any other provision of the Plan to the contrary, with respect to any Award that constitutes a “nonqualified deferred compensation plan” subject to Section 409A of the Code, any payments (whether in cash, Shares or other property) to be made with respect to the Award upon the Participant’s Termination of Employment shall be delayed until the first day of the seventh month following the Participant’s Termination of Employment if the Participant is a “specified employee” within the meaning of Section 409A of the Code.

(l) *Employee Matters Agreement.* Notwithstanding anything in this Plan to the contrary, to the extent that the terms of this Plan are inconsistent with the terms of an Adjusted Award, the terms of the Adjusted Award shall be governed by the Employee Matters Agreement, the applicable IAC Long-Term Incentive Plan and the award agreement entered into thereunder.

**WAREHOUSING CREDIT AGREEMENT**

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LIST OF EXHIBITS

<b>Exhibit A</b>	- Warehouse Borrowing Base Formula
<b>Exhibit B</b>	- Covenant Compliance Certificate
<b>Exhibit C-1</b>	- Warehouse Note (National City)
<b>Exhibit D</b>	- Pledge, Security and Collateral Agency Agreement
<b>Exhibit E</b>	- Form of Swing Note
<b>Exhibit G</b>	- Form of Additional Lender Agreement
<b>Exhibit H</b>	- Form of Commitment Schedule and Allocation Notice
<b>Exhibit I</b>	- Form of Request for Warehouse Advance
<b>Exhibit J</b>	- Authorized Signer Letter

SCHEDULES

<b>Schedule 1.1</b>	- Approved Investor List
<b>Schedule 2.1</b>	- Warehouse Pro Rata Shares and Warehouse Line Commitments
<b>Schedule 6.1</b>	- Information Relating to Company Representations and Warranties

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WAREHOUSING CREDIT AGREEMENT

**THIS WAREHOUSING CREDIT AGREEMENT** (this “Credit Agreement”) is made and entered into as of this 26th day of November, 2007, by and among (i) **HOME LOAN CENTER, INC. D/B/A LENDINGTREE LOANS**, a California corporation with its principal place of business located at 163 Technology Drive, Irvine, California 92618 (the “Company”), (ii) **NATIONAL CITY BANK**, a national banking association, with a place of business located at 101 South Fifth Street, Louisville, Kentucky 40202 (“National City” or the “Bank”), and (iii) **NATIONAL CITY BANK**, a national banking association, with a place of business located at 101 South Fifth Street, Louisville, Kentucky 40202, its capacity as Agent for the hereinafter defined Banks (in such capacity, the “Agent”).

P R E L I M I N A R Y   S T A T E M E N T

WHEREAS, the Company desires to obtain from the Bank a warehouse line of credit in the original maximum principal amount as of the date hereof of Fifty Million Dollars (\$50,000,000.00) (the “Warehouse Line”), subject to the terms and conditions set forth in this Credit Agreement.

WHEREAS, the Bank desires to establish the Warehouse Line in favor of the Company upon the terms and conditions set forth in this Credit Agreement.

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

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

**ARTICLE 1**

DEFINITIONS AND ACCOUNTING TERMS

1.1 **Definitions.** In addition to the definitions set forth in the introduction and the preliminary statement of this Credit Agreement, the following terms shall have the meanings set forth below (such meanings to be equally applicable to both the singular and plural form of the terms defined):

“Additional Lender Agreement” shall have the meaning assigned to such term in **Section 11.1** hereof.

“Adjustment Date” shall have the meaning assigned to such term in **Section 11.1** hereof.

“Advance” shall mean, as applicable, a Warehouse Advance, a Swing Advance or an Excess Advance.

“Affiliate” shall mean (i) any Person that, directly or indirectly, is in control of, is controlled by, or is under common control with, the Company, including without limitation LendingTree or (ii) any Person who is a director or officer of the Company or of any Person described in clause

(i) above. For purposes of this definition, control of a Person shall mean the power, direct or indirect, to vote ten percent (10%) or more of the securities having ordinary voting power for the election of directors of such Person or to direct the management or policies of such Person, whether through the ownership of voting securities, or otherwise.

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“Aged Loan” shall mean, as of any date:

(a) Any Loan, which is not a Wet Loan, which has been pledged as Collateral for more than ninety (90) calendar days (calculated from the date upon which the Advance relating to such Loan is made hereunder); and

(b) Any Wet Loan which has been pledged as Collateral for more than ten (10) calendar days (calculated from the date upon which the Advance relating to such Loan is made hereunder).

“Agent” shall have the meaning assigned to such term in the introduction of this Credit Agreement, and includes any successor Agent under **Section 10.12** hereof.

“Aggregate Amount Due” shall have the meaning assigned to such term in **Section 9.18** hereof.

“Aggregate Outstanding Balance” shall mean, as of any particular date, the sum of the Aggregate Outstanding Warehouse Balance plus the Aggregate Outstanding Excess Balance.

“Aggregate Outstanding Excess Balance” shall mean, as of any particular date, the aggregate unpaid principal balance of all Excess Advances, if any.

“Aggregate Outstanding Warehouse Balance” shall mean, as of any particular date, the aggregate unpaid principal balance of all Warehouse Advances and Swing Advances, if any.

“Alt A Advance” shall mean an Advance requested to fund a Alt A Loan.

“Alt A Advance Sublimit” shall mean an amount equal to ten percent (10%) of the Total Warehouse Line Commitment; provided, however, not more than five percent (5%) of the Total Warehouse Line Commitment may be used for Advances supported by Alt A Loans satisfying parts (i), (ii) and (iii) (B) of the definition of Alt A Loan set forth herein.

“Alt A Loan” shall mean a Loan: (i) the entire interest of which is owned by the Company and which is secured by a First Trust Deed, (ii) which is not a Conforming Loan, and (iii) either (A)(1) such Loan shall have a FICO Score equal to or in excess of six hundred sixty (660), (2) such Loan shall be a “Limited Documentation Mortgage Loan”, and (3) such Loan shall have a loan-to-value ratio at origination of not more than ninety-five percent (95%), or (B)(1) such Loan shall have a FICO Score equal to or in excess of six hundred twenty (620) but less than or equal to six hundred fifty-nine (659), and (2) such Loan shall have a loan-to-value ratio at origination of not more than ninety percent (90%).

“Applicant Financial Institution” shall have the meaning assigned to such term in **Section 11.1** hereof.

“Appraised Value” shall mean, with respect to an interest in real estate, the then current fair market value thereof as of a recent date satisfactory to the Agent, as determined by the FHA or the VA, if applicable, or, if there is no such determination, then as determined in accordance with accepted methods of appraising by a qualified appraiser who is a member of the American Institute of Real Estate Appraisers or other group of professional appraisers and who is reasonably acceptable to the Agent.

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“Approved Investors” shall mean the financial institutions approved for the shipment of Eligible Collateral by the Agent and listed on **Schedule 1.1** attached hereto and made a part hereof by this reference, which listing shall include the address of each such Approved Investor, the name of the contact person for such Approved Investor and the telephone number of such contact person. The Agent may from time to time, at its sole and absolute discretion, upon the written request of the Company, agree to add financial institutions to the list of Approved Investors provided that a financial institution shall not be deemed to be an Approved Investor until such time as the Agent has notified the Company that such financial institution has been approved by the Agent. The Agent may from time to time, at its sole and absolute discretion, remove any financial institution from the list set forth in **Schedule 1.1** by giving the Company prior notice of such removal. From and after the Company’s receipt of notice removing an investor from the Approved Investor list, the Company shall not enter into any additional commitments for delivery of Loans for purchase by that investor, which will be the subject of an Advance or a Firm Commitment hereunder; provided, however, that the Company may deliver to an investor so removed from the Approved Investor list those Loans, which are the subject of an Advance hereunder, and only those Loans, which are scheduled to be, or in the process of being, delivered to that investor as of the date Company’s receipt of such notice from the Agent.

“Average Monthly Available Deposits” shall mean the monthly average of free collected balances maintained in non-interest bearing accounts in the name the Company (or held by the Company in trust for third parties) with a Bank, after deducting any unpaid service charges or float required by such Bank under its normal practices to compensate such Bank for the maintenance of such accounts and taking into consideration reserve requirements and the other costs of complying with applicable law (including but not limited to any FDIC premium applicable to such accounts).

“Balance Funded Bank” shall mean National City Bank.

“Bank” and “Banks” shall have the meaning assigned to such terms in the introduction to this Credit Agreement and shall include each of National City and any other Applicant Financial which is added as a Bank hereunder by the Company and the Agent.

“Bankruptcy Code” shall mean Title 11 of the United States Code entitled “Bankruptcy” as now and hereafter in effect, or any successor statute.

“Billing Statement” shall have the meaning assigned to such term in **Section 2.9** hereof.

“Borrowing Base Report” shall mean the report prepared by the Agent to calculate the Warehouse Borrowing Base in accordance with the formula set forth in **Exhibit A** to this Credit Agreement.

“Business Day” shall mean for all purposes, any day excluding Saturday, Sunday and any day which is (a) a legal holiday under the laws of the state in which the Agent maintains its office for purposes of performing its obligations under this Credit Agreement as set forth on the signature pages of this Credit Agreement, or (b) a day on which (i) banking institutions located in such state are authorized or required by law or other governmental action to close and/or (ii) the United States Federal Reserve Bank is closed.

“Closing Date” shall mean the date on which the initial Advance is made to the Company and the conditions set forth in **Article 4** hereof are satisfied.

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“Collateral” shall mean the assets of the Company, as more particularly described in **Section 2.1** of the Security Agreement in which the Agent, for the benefit of the Banks in proportion to their Pro Rata Shares, has a Security Interest.

“Collateral Documents” shall mean the Security Agreement, any Intercreditor Agreement executed pursuant to **Section 7.2(a)** of this Credit Agreement and all other agreements, instruments, documents, and other papers creating, evidencing, or representing the Collateral or the Security Interests therein, each as may be amended, modified, supplemented and restated from time to time.

“Collateral Handling Fees” shall have the meaning assigned to such term in **Section 2.14(b)** hereof.

“Collateral Mortgage Documents” shall have the meaning assigned to such term in the Security Agreement.

“Collateral Proceeds Account” shall mean the “no access” deposit account maintained by the Agent at the main office of the Agent in the name of the Agent for the benefit of the Company and to which the Company shall have no access, for the purposes of receiving the proceeds of the Collateral and other funds as provided in this Credit Agreement and the Security Agreement.

“Collateral Value” shall mean as of any date:

(a) With respect to a Loan which constitutes Eligible Collateral on such date, and which is not an Alt A Loan, a Jumbo Loan, a HELOC Loan or a Second Trust Deed Loan, ninety-nine percent (99%) of the lesser of (i) the face amount of the promissory note evidencing such Loan, or (ii) the purchase price under the Commitment to which the applicable Loan has been assigned;

(b) With respect to a Loan which constitutes Eligible Collateral on such date, and which is a Jumbo Loan, ninety-seven percent (97%) of the lesser of (i) the purchase price under the Commitment to which such Loan has been assigned, or (ii) the face amount of the promissory note evidencing such Loan;

(c) With respect to a Loan which constitutes Eligible Collateral on such date, and which is a HELOC Loan or Second Trust Deed Loan, ninety-five percent (95%) of the lesser of (i) the unpaid principal balance of the applicable Loan, or (ii) the purchase price under the Commitment to which the applicable Loan has been assigned; and

(d) With respect to a Loan which constitutes Eligible Collateral on such date, and which is an Alt A Loan, ninety-six percent (96%) of the lesser of (i) the purchase price under the Commitment to which such Loan has been assigned, or (ii) the face amount of the promissory note evidencing such Loan.

Notwithstanding anything contained in (a), (b), (c) or (d) to the contrary:

- A. The Collateral Value of all Wet Loans shall not exceed, in the aggregate, the Wet Advance Sublimit;
- B. The Collateral Value of all Jumbo Loans shall not exceed, in the aggregate, the Jumbo Advance Sublimit;
- C. The Collateral Value of all HELOC Loans and Second Trust Deed Loans

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shall not exceed, in the aggregate, the HELOC/Second Trust Deed Advance Sublimit;

- D. The Collateral Value of all Alt A Loans shall not exceed, in the aggregate, the Alt A Advance Sublimit;
- E. Each Wet Loan in respect to which the Company shall not have delivered all of the Collateral Documents to the Agent within the number of days required by the Security Agreement, shall have a Collateral Value of zero;
- F. Each Wet Loan which the Agent determines has not been funded by the Company on the date the Advance in respect of such Wet Loan is made by the Banks to the Company, shall have a Collateral Value of zero;
- G. If the Agent shall reasonably determine that the Collateral Value otherwise assigned to an item of Eligible Collateral does not accurately reflect the value thereof, then, upon notice to the Company, the Agent may mark an item of collateral to market at any time to determine the fair market value thereof; provided, however, in no event shall any mark to market with respect to any item of Eligible Collateral under this subsection result in such item of Eligible Collateral having a Collateral Value higher than such item would otherwise have;

H. In the event that a Loan shall have been delivered by the Agent to a purchaser under a Commitment as provided in the Security Agreement, or in the event that such Loan was delivered by the Agent to an Approved Investor and more than the maximum number of days allowed by the Security Agreement shall have elapsed since the date of such delivery and no purchase has taken place or the proceeds thereof have not been received by the Agent, such Loan shall have a Collateral Value of zero;

I. All Aged Loans which do not constitute Eligible Collateral shall have a Collateral Value of zero;

J. All Loans which are under Trust Receipt in accordance with the terms of the Security Agreement which are not returned to the Agent within the required number of days specified in the Security Agreement, shall have a Collateral Value of zero;

K. The Collateral Value of each HELOC Loan and Second Trust Deed Loan shall not exceed Three Hundred Fifty Thousand Dollars (\$350,000.00); and

L. The Collateral Value of all Loans which are under Trust Receipt in accordance with the terms of the Security Agreement shall not exceed, in the aggregate, Two Million Five Hundred Thousand Dollars (\$2,500,000.00).

“Commitment” shall mean a Firm Commitment or a Standby Commitment.

“Commitment Fee” shall have the meaning assigned to such term in **Section 2.14(b)** hereof.

“Commitment Pro Rata Share” shall mean a Bank’s Warehouse Commitment Pro Rata Share.

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“Commitment Schedule and Allocation Notice” shall mean a notice in the form of the Commitment Schedule and Allocation Notice attached hereto as Exhibit H and made a part hereof by this reference.

“Company” shall have the meaning assigned to that term in the introduction of this Credit Agreement.

“Confirmation of Electronic Request for Advance” shall have the meaning ascribed to such term in **Section 2.4(a)** hereof.

“Conforming Loan” shall mean a Loan secured by a Conforming Mortgage or Government Mortgage, and which may be a “Stated Asset Loan”, “Stated Income Loan” or “Option ARM Loan”.

“Conforming Mortgage” shall mean a First Trust Deed securing a Loan which is not an Alt A Loan and which meets all Fannie Mae or FHLMC underwriting standards and received a favorable eligibility response from any of Fannie Mae Desktop Underwriter, FHLMC Loan Prospector or other proprietary underwriting system, as may be approved by the Agent in its sole discretion.

“Covenant Compliance Certificate” shall mean the certificate to be furnished to the Agent on behalf of the Banks in accordance with **Sections 4.2(a)** and **7.3(b)** hereof and in the form of Exhibit B attached to this Credit Agreement and made a part hereof by this reference, together with a spreadsheet or other working papers showing the calculations used to prepare such certificate.

“Credit Agreement” shall mean this Warehousing Credit Agreement, as amended, modified, supplemented and restated from time to time.

“Default Rate” means, upon the occurrence and during the continuation of any Event of Default with respect to the then or thereafter outstanding principal balance of any Note, a rate per annum equal to the sum of three percent (3%) per annum plus the per annum rate of interest then applicable to such Note pursuant to **Section 2.8** hereof.

“Document Custodian” shall mean National City acting as the custodian of the Loans (or such other custodian acceptable to the Company and the Banks).

“Dry Loan” shall mean a Loan the Collateral Mortgage Documents for which have been delivered to the Agent and the entire interest of which Loan is owned by the Company.

“Electronic Request for Advance” shall mean an electronic data transmission made in such manner and in accordance with such procedures as may be established by the Agent from time to time.

“Electronic Tracking Agreement” shall mean an Electronic Tracking Agreement by and among the Company, the Agent, MERS MERSCORP, in form acceptable to Agent in its sole discretion.

“Electronic Transmittals” shall mean the electronic delivery to the Agent of collateral data and collateral transaction data in the format prescribed by the Agent.

“Eligible Collateral” shall mean, collectively and as of any date, [A] each Loan (i) which is a Conforming Loan, Government Loan, a Wet Loan, a Jumbo Loan, a HELOC Loan, a Second Trust Deed Loan or an Alt A Loan, (ii) which is not an Aged Loan, (iii) which constitutes Collateral, (iv) which no

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default has occurred and is continuing on such Loan, (v) which is pledged as Collateral within thirty (30) calendar days of origination, purchase or conversation, (vi) which has no more than one (1) principal/interest payment past due, (vii) which has not been under Trust Receipt in accordance with the terms of the Security Agreement for more than the maximum number of days allowed under the Security Agreement, (viii) which has not been shipped to an

Approved Investor for more than the maximum number of days allowed by the Security Agreement and no purchase proceeds have been received by the Agent, (ix) in respect of which the loan-level representations, warranties and agreements contained in the Credit Agreement and the Security Agreement are true and correct, (x) which is subject to a Firm Commitment or Standby Commitment, and (xi) in the case of a HELOC Loan or Second Trust Deed Loan, such Loan has not been determined by the Agent in its sole and absolute judgment and discretion to be ineligible for warehousing under the Warehouse Line and/or any particular Sublimit thereof as a result of the Agent's evaluation of market conditions or other market factors without regard to whether the other specific definitional parameters for Eligible Collateral set forth in this Agreement have been met, any such determination by the Agent of ineligibility to be effective immediately upon the Agent's determination thereof, with written notice to be provided to the Company as soon as practicable thereafter; and [B] each Loan (i) that is a Discretionary Loan (as defined in **Section 9.20** hereof) without duplication, (ii) that constitutes Collateral, and (iii) that is not subject to any lien or security interest other than that granted under the Credit Agreement and the Security Agreement. Unless specifically provided for herein, "Stated Asset Loans", "Stated Income Loans", and "Option ARM Loans" are not permitted to be funded under the Warehouse Line and shall not constitute Eligible Collateral under this Credit Agreement.

"ERISA" shall have the meaning assigned to such term in **Section 6.12** hereof.

"Event of Default" shall mean any of the events set forth in **Section 8.1** hereof.

"Excess Advances" shall mean the cash amount advanced under the terms of **Section 2.2(b)** hereof.

"Excess Pro Rata Share" shall mean the entire outstanding principal amount of the Excess Advances, all as held by the Agent.

"Fannie Mae" shall mean the Federal National Mortgage Association, or any successor thereto.

"FHA" shall mean the Federal Housing Administration, or any successor thereto.

"FHLMC" shall mean the Federal Home Loan Mortgage Corporation, or any successor thereto.

"FICO Score" shall mean the credit score obtained by using the credit score methodology provided by Fair Isaac Corporation.

"Firm Commitment" shall mean a commitment or pre-approval for a commitment from an Approved Investor or other security dealer reasonably satisfactory to the Agent, to purchase from the Company a Loan or Loans under which commitment the Company is obligated to sell such Loan or Loans. Notwithstanding anything contained herein to the contrary, any Loan which has been underwritten in accordance with the underwriting guidelines of a substantial and reputable lending institution, investor, or security dealer, reasonably satisfactory to Agent, shall be deemed to be subject to a "Firm Commitment" for all purposes hereunder.

"First Trust Deed" shall mean a mortgage, deed of trust, or other security deed in land and other interests in real property (including, without limitation, leasehold interests) and the structures, improvements, fixtures, and buildings located thereon, or in other rights and interests in real property, which secures a Loan and, which mortgage, deed of trust, or other security deed is subject to no prior or superior mortgage, deed of trust or other security deed in the land and other interests in real property encumbered by such mortgage, deed of trust, or other security deed.

"Funding Date" shall have the meaning assigned to such term in **Section 2.4(c)** hereof.

"GAAP" shall mean those generally accepted accounting principles set forth in the opinions and pronouncements of the Financial Accounting Standards Board and its predecessors and the American Institute of Certified Public Accountants or those generally accepted principles of accounting which have other substantial authoritative support and are applicable in the circumstances as of the date of application, as such principles are from time to time supplemented and amended, each as consistently applied.

"GAAP Net Worth" shall mean, as of any date of determination, the Company's net worth as determined in accordance with GAAP.

"GNMA" shall mean the Government National Mortgage Association, or any successor thereto.

"Government Loan" shall mean a Loan secured by a Government Mortgage.

"Government Mortgage" shall mean a First Mortgage securing a Loan which is eligible to be (i) insured by FHA, or (ii) guaranteed by VA or GNMA.

"Hedging Program" shall mean any program maintained by the Company to hedge certain interest rate risks associated with its mortgage banking business.

"HELOC Loan" shall mean a Loan secured by a Home Equity Mortgage, the entire interest of which is owned by the Company; provided, however, that (a) such Loan shall be subject to a Firm Commitment, (b) such Loan shall have a FICO Score equal to or in excess of six hundred sixty (660), and (c) such Loan shall have a combined loan-to-value ratio at origination of not more than ninety percent (90%).

"HELOC/Second Trust Deed Advance" shall mean an Advance requested to fund a HELOC Loan or Second Trust Deed Loan.

"HELOC/Second Trust Deed Advance Sublimit" shall mean an amount equal to ten percent (10%) of the Total Warehouse Line Commitment.

"Home Equity Mortgage" shall mean a mortgage, deed of trust or other security deed in land and other interests in real property (including, without limitation, leasehold interests) and the structures, improvements, fixtures and buildings located thereon, and in other rights and interests in real property, which secures a Loan, and which mortgage, deed of trust or other security deed which may be subject to a prior or superior mortgage, deed of trust or other security deed in the land and other interest in real property encumbered by such mortgage, deed of trust or other security deed.

“Jumbo Advance” shall mean an Advance requested to fund a Jumbo Loan.

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“Jumbo Advance Sublimit” shall mean an amount equal to twenty-five percent (25%) of the Total Warehouse Line Commitment.

“Jumbo Loan” shall mean a Loan, which is not an Alt A Loan, HELOC Loan or Second Trust Deed Loan, the amount of which exceeds Fannie Mae or FHLMC guidelines for maximum eligible amount, but which Loan shall not have a face amount in excess of One Million Dollars (\$1,000,000), except as may be otherwise pre-approved by the Agent in writing in its sole discretion after the Company has provided the Agent with written notice thereof together with a copy of the related Commitment from an Approved Investor and the applicable appraisal at least two (2) Business Days prior to the funding thereof, and the entire interest of which is owned by the Company and which is secured by a First Trust Deed covering a completed one-to-four family residential property which is subject to a Firm Commitment, provided, that: (i) such Loan shall have a FICO Score equal to or in excess of six hundred sixty (660), and (ii) such Loan shall have a combined loan-to-value ratio at origination of not more than ninety percent (90%).

“LendingTree” shall mean LendingTree, LLC, a North Carolina limited liability company with principal office mailing address of 11115 Rushmore Drive, Charlotte, North Carolina 28277, and the sole stockholder of the Company.

“LIBOR” shall mean the per annum rate equal to the thirty (30) day average of the London Interbank Offered Rate, as published by Bloomberg Financial Services or a similar service selected by the Agent during each monthly billing cycle, or as otherwise determined in good faith by the Agent.

“Liquid Assets” shall mean the sum of (i) cash and cash equivalents, plus (ii) pledged cash or security deposits with National City-Bank or other lenders, plus (iii) loans held for sale minus the sum of (y) the outstanding balance of all mortgage warehouse lines of credit plus (z) drafts payable.

“Loan” shall mean a residential real estate mortgage loan purchased, refinanced or made by the Company, evidenced by a promissory note, and secured by a mortgage or deed of trust or similar instrument creating an enforceable first or second lien upon a one-to-four family residential property which was financed with the proceeds of such loan.

“Loan Documents” shall mean, collectively, this Credit Agreement, the Warehouse Notes, the Swing Note, the Security Agreement, the other Collateral Documents and any and all other documents executed in connection therewith, including, without limitation, any inter-creditor agreements as may be required by the Agent, each as the same may be amended, modified, supplemented and restated from time to time.

“Maturity Date” shall mean October 31, 2008; provided that the Agent and the Banks shall have the option, in their absolute discretion, either one time or from time to time, to extend the Maturity Date for an additional period not to exceed three hundred and sixty four (364) days. If the Maturity Date is extended, the term Maturity Date shall mean the date of expiration of such extension.

“MERS” shall mean the Mortgage Electronic Registration System, Inc., or any successor thereto.

“NIERSCORP” shall mean MERSCORP, Inc., or any successor thereto.

“MERS Loan” shall mean any Loan made by the Company that is secured by a MERS

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Mortgage.

“MERS Member” shall mean any entity which is a member of MERS, in good standing and in compliance with all rules, regulations, procedures and requirements set forth by MERS, including, but not limited to the payment of membership dues.

“MERS Mortgage” shall mean any First Trust Deed or Second Trust Deed registered by the Company on the MERS System.

“MERS System” shall mean the Mortgage Electronic Registration System established by MERS.

“Notes” shall mean, collectively, the Warehouse Notes and the Swing Note.

Collateral.  
“Obligor” shall mean a person or other entity who now or hereafter is or becomes liable to the Company with respect to any of the

“origination” shall mean with respect to any Loan, the date of original funding of such Loan.

“Person” shall mean any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity, party, or government (whether national, federal, state, county, city, municipal, or otherwise, and including, without limitation, any instrumentality, division, agency, body, or department thereof), whether acting in an individual, fiduciary, or other capacity, including, without limitation, any Affiliate.

“Plan” shall have the meaning assigned to such term in **Section 6.12** hereof.

“Pledged Loan” shall mean any Loan made by the Company with respect to which the Banks have made an Advance, or with respect to which the Company has requested an Advance unless such Request for Advance is rejected by the Agent, or which is now or hereafter at any time pledged, assigned, transferred, or conveyed, or a security interest therein granted, to the Agent for the benefit of the Banks. If the context so requires, “Pledged Loan” shall also mean any and all instruments and documents which evidence, secure or relate to any such Loan.

“Prevailing Time” shall mean the prevailing time in Louisville, Kentucky.

“Pro Rata Share” shall mean, as appropriate, a Bank’s Warehouse Pro Rata Share or Excess Pro Rata Share.

“Procedures Manual” shall mean those certain operating procedures published by the Agent from time to time, a copy of which was provided to the Company in connection with this Credit Agreement.

“Regulation D” shall mean Regulation D of the Board of Governors of the Federal Reserve System as in effect from time to time.

“Repayment Date” shall have the meaning assigned to such term in **Section 2.4(c)** hereof.

“Request for Advance” shall mean a Request for Warehouse Advance or a Request for Swing Advance, as appropriate.

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“Request for Swing Advance” shall mean a written request for a Swing Advance by the Company in a form acceptable to the Agent.

“Request for Warehouse Advance” shall mean a written request for an Advance by the Company in a form acceptable to the Agent.

“Requisite Banks” shall mean either (i) when an Event of Default does not exist, Banks holding more than sixty-six and sixty-seven hundredths of one percent (66.67%) of the Total Warehouse Line Commitment, or (ii) when an Event of Default does exist, Banks holding more than sixty-six and sixty-seven hundredths of one percent (66.67%) of the Aggregate Outstanding Warehouse Balance, as of the date of determination of the Requisite Banks.

“Second Trust Deed” shall mean a mortgage, deed of trust or other security deed in land and other interests in real property (including, without limitation, leasehold interests) and the structures, improvements, fixtures and buildings located thereon, or in other rights and interests in real property which mortgage, deed of trust or other security deed is subject to only one prior or superior mortgage, deed of trust or other security deed in the land and other interests in real property encumbered by such mortgage, deed of trust, or other security deed.

“Second Trust Deed Loan” shall mean a Loan, the entire interest of which is owned by the Company and which is secured by a Second Trust Deed; provided, however, that (a) such Loan shall be subject to a Firm Commitment, (b) such Loan shall have a FICO Score equal to or in excess of six hundred sixty (660), and (c) such Loan shall have a combined loan-to-value ratio at origination of not more than ninety percent (90%).

“Secured Obligations” shall mean all obligations, liabilities, and indebtedness of the Company to the Agent and the Banks, due or to become due, direct or indirect, absolute or contingent, joint or several, now existing or at any time hereafter arising, incurred under the Credit Agreement, this Security Agreement, the Notes, any of the other Loan Documents, any other credit agreement or note hereafter executed and delivered by the Company in favor of the Agent and/or the Banks, and any amendment to any of the foregoing, or otherwise, and any amendment, renewal, or extension of any such obligations, liabilities, and indebtedness, including without limitation all interest, fees, charges, expenses, and reasonable attorneys’ fees, to the extent permitted by law, incurred to enforce the Agent’s or the Banks’ rights against the Company under this Security Agreement or otherwise, or arising out of the defense or prosecution of any matter growing out of this Security Agreement or any of the other foregoing documents, agreements and instruments referred to above or any security interest granted herein.

“Security Agreement” shall mean that certain Pledge, Security and Collateral Agency Agreement of even date herewith by and among the Company, the Banks and the Agent and substantially in the form of **Exhibit D** attached to this Credit Agreement and made a part hereof by this reference, as amended, modified, supplemented and restated from time to time.

“Security Interest” shall mean every security interest, pledge, lien, hypothecation, and other encumbrance on or in any of those assets of the Company now or hereafter granted by the Company to the Agent (for the ratable benefit of the Banks) or any Bank, whether pursuant to this Credit Agreement, the Security Agreement, or otherwise.

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“Standby Commitment” shall mean a commitment from an Approved Investor or other security dealer reasonably satisfactory to the Agent, to purchase from the Company within a specified time period a Loan or Loans, in an aggregate principal amount which conforms to the criteria set forth therein, under which commitment the Company has the right, but is not obligated, to sell such Loan or Loans.

“Swing Advance” shall mean the cash amount, if any, advanced under the Warehouse Line by the Agent to or for the account of the Company under the terms of **Section 2.2(a)** of this Credit Agreement.

“Swing Advance Limitations” shall have the meaning assigned to such term in **Section 2.2(a)** hereof.

“Swing Line” shall mean the swing line of credit established by the Agent pursuant to Article 2 hereof.

“Swing Note” shall mean that certain Swing Promissory Note to be made by the Company, payable to the order of the Agent, upon the addition of an Applicant Financial Institution as a “Bank” hereunder, and in a maximum principle amount to be determined by the Agent and the Company, a form of which is annexed hereto as Exhibit E, as the same may hereafter be amended, modified, renewed, replaced and/or restated from time to time, and which shall evidence all Swing Advances, if any.

“Tangible Net Worth” shall mean, as of any date of determination, GAAP Net Worth minus the aggregate net book value of (i) all intangible assets (as determined in accordance with GAAP) of the Company including, without limitation, capitalized purchased insurance renewals, goodwill, trademarks, trade names, service marks, copyrights, patents, licenses, franchises and unamortized debt discount and expenses, (ii) all notes and accounts receivable due from officers, stockholders, employees or other Affiliates of the Company, (iii) subscribed stock, and (iv) any other assets Company deemed unacceptable by the Agent.

“Termination Date” shall mean the earlier of (i) the Maturity Date, or (ii) the date this Credit Agreement is terminated pursuant to Section 8.3 hereof.

“Total Indebtedness” shall mean, as of the date of any determination, all indebtedness of the Company, as determined in accordance with GAAP, including, without limitation, all unpaid Secured Obligations, all amounts due under all capital leases, all accounts and trade payables, and all other liabilities and obligations Company, including without limitation, any guarantees made by the Company to or for the benefit of any Affiliate or any other Person.

“Total Warehouse Line Commitment” shall mean the total aggregate principal amount of all Warehouse Line Commitments as determined from time to time in accordance with the provisions of Article 2 and Article 11 of this Credit Agreement, and shall mean the principal amount of Fifty Million Dollars (\$50,000,000.00) subject to adjustment as provided in Section 11.1 hereof.

“Trust Receipt” shall have the meaning ascribed to such term in the Security Agreement.

“Unmatured Event of Default” shall mean any event which, with the lapse of time, or with notice to the Company, or both, would constitute an Event of Default.

“VA” shall mean the Veterans Administration, or any successor thereto.

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“Warehouse Advance” shall mean the cash amount advanced under the Warehouse Line by the Banks to or for the account of the Company under the terms of Section 2.1 of this Credit Agreement.

“Warehouse Borrowing Base” shall mean that amount which is determined according to the formula set forth in Exhibit A to this Credit Agreement and made a part hereof by this reference.

“Warehouse Commitment” or “Warehouse Commitments” shall mean the Commitment of each Bank to maintain or make Warehouse Advances as set forth in Section 2.1 hereof.

“Warehouse Commitment Pro Rata Share” shall mean with respect to each Bank’s pro rata share of the Total Warehouse Line Commitment, the percentage set forth opposite that Bank’s name on Schedule 2.1 to this Credit Agreement, as the same shall be amended from time to time as provided herein.

“Warehouse Line” shall mean the line of credit in the maximum principal amount of Fifty Million Dollars (\$50,000,000.00) established by the Agent and the Banks in favor of the Company under Article 2 of this Credit Agreement, subject to adjustment as provided in Section 11.1 hereof.

“Warehouse Line Commitment” or “Warehouse Line Commitments” shall mean the commitment of each Bank to maintain or make Warehouse Advances as set forth in Section 2.1 hereof.

“Warehouse Notes” shall mean, collectively, (i) that certain Warehouse Promissory Note dated as of November 26, 2007, made by the Company, payable to the order of National City, in the face principal amount of Fifty Million Dollars (\$50,000,000.00) a form of which is attached hereto as Exhibit C-1, as the same may hereafter be amended, modified, renewed, replaced and/or restated from time to time, and (ii) when executed and delivered, any such additional Warehouse Promissory Note substantially in the form of Exhibit C-1 attached hereto, made by the Company, payable to the order of any respective Applicant Financial Institution as shall be added as a “Bank” hereunder and in the face principal amount of such Applicant Financial Institution’s Warehouse Line Commitment, as the same may thereafter be amended, modified, renewed, replaced and/or restated from time to time.

“Warehouse Pro Rata Share” shall mean, with respect to each Bank, the percentage calculated by dividing the average monthly sum of the Aggregate Outstanding Warehouse Balance plus the Aggregate Outstanding Excess Balance attributable to such Bank by the average monthly total of the Aggregate Outstanding Warehouse Balance plus the Aggregate Outstanding Excess Balance.

“Wet Advance” shall mean an Advance requested to fund a Wet Loan.

“Wet Advance Sublimit” shall mean an amount equal to forty percent (40%) of the Total Warehouse Line Commitment.

“Wet Loan” shall mean a Loan the entire interest of which is owned by the Company and which is a Loan secured by a First or Second Trust Deed covering a one-to-four family residential property which is subject to a Firm Commitment or Standby Commitment for which the Collateral Mortgage Documents relating to such Loan have not been delivered to the Agent within the maximum number of days allowed by the Security Agreement.

1.2 Accounting Terms. All accounting terms, except as their meanings may be modified by this Credit Agreement, shall have the meanings given them in accordance with GAAP.

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## ARTICLE 2

### THE WAREHOUSE LINE

2.1 Warehouse Advances. Each Bank severally agrees to lend to the Company, and the Company agrees to borrow from each Bank, on the terms and conditions of this Credit Agreement, an aggregate amount not exceeding such Bank’s respective Warehouse Line Commitment, and the aggregate amount of all such Warehouse Line Commitments shall equal the Total Warehouse Line Commitment; provided, however the Total Warehouse Line Commitment includes a Wet Advance Sublimit, a Jumbo Advance Sublimit, a HELOC/Second Trust Deed Advance Sublimit and an Alt A Advance Sublimit.

Subject to the terms and conditions contained herein, Warehouse Advances may be repaid and reborrowed until the Termination Date. Each Bank's commitment to make Warehouse Advances under this **Section 2.1** is herein called its "Warehouse Line Commitment" and is set forth opposite its name in **Schedule 2.1** attached to this Credit Agreement and the aggregate maximum amount of the Warehouse Line Commitments is herein called the "Total Warehouse Line Commitment". The Total Warehouse Line Commitment is equal to Fifty Million Dollars (\$50,000,000.00), as may be increased by the Company and the Agent in their sole, joint discretion by adding one or more Applicant Financial Institutions as a "**Bank**" or "**Banks**" hereunder and as may be decreased in accordance with the requirements of **Section 11.1** hereof. The principal amount set forth above (as the same may be increased pursuant to the terms hereof) shall be available to the Company as Warehouse Advances, Excess Advances and Swing Advances, subject to the terms and conditions hereof, at such times prior to the Termination Date and in such sums, as the Company may request.

Notwithstanding the foregoing, the Banks shall not be obligated to make a Warehouse Advance which, (a) when added to the sum of the Aggregate Outstanding Warehouse Balance plus the Aggregate Outstanding Excess Balance, would cause the Aggregate Outstanding Warehouse Balance plus the Aggregate Outstanding Excess Balance to exceed the Warehouse Borrowing Base at such time; (b) when added to the sum of the Aggregate Outstanding Warehouse Balance plus the Aggregate Outstanding Excess Balance, would cause or result in a violation of the financial covenants set forth in **Article 5** hereof; (c) if such Warehouse Advance is a Wet Advance, when added to the aggregate outstanding balance of all Wet Advances would cause or result in a violation of the Wet Advance Sublimit; (d) if such Warehouse Advance is a Jumbo Advance, when added to the aggregate outstanding of all Jumbo Advances would cause or result in a violation of the Jumbo Advance Sublimit; (e) if such Warehouse Advance is an HELOC/Second Trust Deed Advance, when added to the aggregate outstanding balance of all HELOC Advances and Second Trust Deed Advances would cause or result in a violation of the HELOC/Second Trust Deed Advance Sublimit; (f) if such Warehouse Advance is an Alt A Advance, when added to the aggregate outstanding balance of all Alt A Advances would cause or result in a violation of the Alt A Advance Sublimit; or (g) if such Warehouse Advance would cause or result in the Aggregate Outstanding Warehouse Balance plus the Aggregate Outstanding Excess Balance to exceed the Total Warehouse Line Commitment. The Agent and the Banks shall not be obligated to honor any Request for Advance if the disbursement of funds thereunder would occur on or after the Termination Date, or if an Event of Default has occurred and is continuing or if such disbursement would cause or result in an Event of Default or an Unmatured Event of Default.

2.2 Swing Advances and Excess Advances by Agent.

(a) Swing Advances. Subsequent to the addition of an Applicant Financial Institution as a "Bank" hereunder and upon the terms and subject to the conditions contained in this Credit Agreement, the Agent may for its own account and at its own discretion, make one or more Swing Advances to the Company, the aggregate unpaid principal amount of which at any time, including those then to be made, shall not exceed the least of (i) the sum of the Total Warehouse Line Commitment at such time less the sum of the Aggregate

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Outstanding Warehouse Balance plus the Aggregate Outstanding Excess Balance at such time, (ii) the sum of the Agent's Warehouse Line Commitment at such time less the amount of the Aggregate Outstanding Warehouse Balance plus the Aggregate Outstanding Excess Balance then allocated to the Agent, and (iii) the then current maximum principal amount of such Swing Line as determined by the Company and the Agent; provided, that, the sum of the Aggregate Outstanding Warehouse Balance plus the Aggregate Outstanding Excess Balance plus the Swing Advance to be made by the Agent, shall not exceed the Warehouse Borrowing Base as set forth in the most recent Borrowing Base Report prepared by the Agent on the day of the making of such Swing Advance plus the Collateral Value of the Eligible Collateral delivered to the Agent on that day and which is not included in the most recent Borrowing Base Report (the "Swing Advance Limitations"). Subsequent to a Swing Advance being made by the Agent, the Agent may at any time (and in any event shall no less frequently than one (1) time each week) in its sole and absolute discretion, demand the Banks to advance under their respective Warehouse Notes and pay to the Agent an amount equal to pay their Warehouse Commitment Pro Rata Share of the Warehouse Advance necessary to repay the then current aggregate outstanding balance of all Swing Advances. On each Business Day on which the Agent makes a demand for payment before 2:00 p.m. Prevailing Time, on any particular Business Day, whether before or after the occurrence of an Event of Default, each Bank shall irrevocably and unconditionally purchase from the Agent, without recourse or warranty, an undivided interest and participation in the Swing Advances then outstanding, by paying to the Agent, in same day funds available to the Agent at the main office of the Agent located at 101 South Fifth Street, Louisville, Kentucky, an amount equal to such Bank's Warehouse Commitment Pro Rata Share of all Swing Advances then outstanding, and thereafter, the Bank's respective interest in such Swing Advances, and the remaining interest of the Agent in such Swing Advances, shall in all respects be treated as a Warehouse Advance, but such Swing Advances shall continue to be evidenced by the Swing Note. In the event the Agent makes such demand of the Banks after 2:00 p.m. Prevailing Time on any particular Business Day, the Banks shall be required to make their respective payments to the Agent before 12:00 noon Prevailing Time on the immediately succeeding Business Day.

(b) Excess Advances by Agent. Subsequent to the addition of an Applicant Financial Institution as a "Bank" hereunder and upon the terms and subject to the conditions contained in this Credit Agreement, in the event the Agent is prevented from making a Swing Advance hereunder as a result of the application of the Swing Advance Limitations outlined above, the Agent may for its own account as a Bank hereunder and at its sole discretion, make one or more Excess Advances to the Company, the aggregate unpaid principal amount of which at any time, including those to be made, shall not exceed the lesser of (i) the sum of the Total Warehouse Line Commitment at such time less the sum of the Aggregate Outstanding Warehouse Balance plus the Aggregate Outstanding Excess Balance at such time, and (ii) the amount of the Agent's Warehouse Line Commitment at such time less the sum of the Agent's Warehouse Commitment Pro Rata Share of the Aggregate Outstanding Warehouse Balance plus the Aggregate Outstanding Excess Balance at such time; provided, that, the sum of the Aggregate Outstanding Warehouse Balance plus the Aggregate Outstanding Excess Balance (excluding the Excess Advance to be made) plus the Excess Advance to be made by the Agent, shall not exceed the Warehouse Borrowing Base as set forth in the most recent Borrowing Base Report prepared by the Agent on the day of the making of the Excess Advance plus the Collateral Value of the Eligible Collateral delivered to the Agent on that day and which is not included in the most recent Borrowing Base Report. Subsequent to an Excess Advance being made by the Agent, the Agent may at any time (and in any event no less frequently than one (1) time each week) in its sole and absolute discretion request the other Banks to pay their respective Warehouse Commitment Pro Rata Shares of the Warehouse Advance necessary to repay all or any portion of the Excess Advances then outstanding. On each day on which the Agent makes a demand for payment before 2:00 p.m. Prevailing Time, whether before or after the occurrence of an Event of Default, each Bank shall pay to the Agent its Warehouse Commitment Pro Rata Share of the Warehouse Advance necessary to pay the Excess Advances designated by the Agent to be reallocated and paid by the Banks, such payments shall be wired to the Agent, in same day funds available to

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the Agent at the main office of the Agent located at 101 South Fifth Street, Louisville, Kentucky, in an amount equal to such Bank's Warehouse Commitment Pro Rata Share of all Excess Advances then designated by the Agent to be reallocated and paid by the Banks. In the event the Agent makes such demand of

the Banks after 2:00 p.m. Prevailing Time on any particular day, the Banks shall be required to make their respective payments to the Agent before 12:00 noon Prevailing Time on the immediately succeeding Business Day.

### 2.3 Notes.

(a) Warehouse Advances. The lending described above, to be made through Warehouse Advances made by the Banks in accordance with the terms set forth herein, shall be evidenced by the Warehouse Notes of the Company, substantially in the form of **Exhibit C-1** to this Credit Agreement. The aggregate amount of the Warehouse Advances made under the Warehouse Notes, less repayments of principal, shall be the principal amount owing and unpaid on such Warehouse Notes. The Warehouse Notes shall be payable in the manner, and shall bear interest at the rates, specified therein and in this Credit Agreement.

(b) Swing Advances. The lending described above, to be made through Swing Advances made by the Agent for its own account in accordance with the terms set forth herein, shall be evidenced by the Swing Note made by the Company payable to the order of the Agent substantially in the form of **Exhibit E** to this Credit Agreement. The aggregate amount of Swing Advances made under the Swing Note, less repayments of principal, shall be the principal amount owing and unpaid on the Swing Note. The Swing Note shall be payable in the manner, and shall bear interest at the rates, specified therein and in this Credit Agreement.

(c) Excess Advances. The lending described above, to be made through Excess Advances by the Agent for its own account through the National City Warehouse Promissory Note in accordance with the terms set forth herein, shall be evidenced by the Warehouse Note of the Company made payable to National City. The aggregate amount of the Warehouse Advances plus Excess Advances made under the Warehouse Note referenced above, less repayments of principal, shall be the principal amount owing and unpaid on such Warehouse Note.

### 2.4 Manner of Borrowing.

(a) Request for Advance. The Company shall deliver to the Agent, not later than the Agent's published deadlines on the Business Day on which the Company desires to obtain an Advance, an original (or facsimile copy) executed Request for Advance (which shall be irrevocable) specifying the amount of the Advance which it desires to borrow. Notwithstanding the foregoing, if approved by the Agent, any such Request for Advance under the immediately preceding sentence may be made to Agent, via an Electronic Request for Advance, prior to the date and time published by the Agent from time to time on the Business Day on which the Company desires to obtain an Advance and, if required by Agent, followed by delivery to Agent, via facsimile transmission or electronic mail, prior to the date and time published by the Agent from time to time on the date of such proposed Advance, of a written confirmation of such Electronic Request for Advance (a "Confirmation of Electronic Request for Advance") in a form acceptable to Agent in its sole discretion (if Agent requires a Confirmation of Electronic Request for Advance and there is any discrepancy between the schedule of Loans electronically transmitted to Agent and the list of Pledged Loans attached to such Confirmation of Electronic Request for Advance, Agent shall be entitled to rely solely on the list attached to said Confirmation of Electronic Request for Advance without further investigation or inquiry; otherwise, if Agent does not receive a Confirmation of Electronic Request for Advance, Agent shall be

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entitled to rely solely on the scheduled of Pledged Loans electronically transmitted to Agent). Agent in its sole discretion can treat any Request for Advance as either (i) a Request for Warehouse Advance, (ii) a Request for Swing Advance, or (iii) a Request for an Excess Advance, as applicable. On the date of the Agent's receipt of a Request for Advance if: (a) no Event of Default or Unmatured Event of Default has occurred and is then existing; (b) all material terms and conditions of this Credit Agreement required to be satisfied prior to the making of the particular type of Advance, including without limitation, all conditions precedent specified in Article 4 hereof, are in fact satisfied; (c) all material terms and conditions of the Security Agreement required to be satisfied prior to the making of an Advance are in fact satisfied; and (d) the making of such Advance shall not cause or result in either a violation of any of the terms of this Credit Agreement or of the Security Agreement, or cause or result in an Event of Default, or an Unmatured Event of Default, the Agent shall (xx) in the case of a Warehouse Advance, credit each Bank's Pro Rata Share of such Warehouse Advance received by the Agent to the Company in accordance with the terms set forth below, (yy) in the case of a Swing Advance, credit the amount of such Swing Advance to the Company, and (zz) in the case of an Excess Advance, credit the amount of such Excess Advance to the Company; provided, however, with respect to each Wet Advance, the proceeds thereof shall, at the option of the Agent, be (i) wire transferred by the Agent through the Federal Reserve Wire Transfer System directly to the Company's agent responsible for closing such Wet Loan, (ii) funded by a draft on the Agent, which draft shall be made payable either [a] jointly to the Company's agent responsible for closing such Wet Loan and the Mortgagor(s) under such Wet Loan, [b] only to the Company's closing agent if such transaction is a refinance transaction where the three (3) day right of rescission may preclude the Company from obtaining both endorsements without incurring significant additional costs, or [c] in the case of a Second Trust Deed Loan, to the mortgagor's consumer debt creditor, or (iii) disbursed in such other manner as is acceptable to the Company and the Agent. Requests for Advance received by the Agent after 12:00 p.m. Prevailing Time will not be processed as a Request for Warehouse Advance, but may be treated, at the Agent's sole discretion, as a Request for Swing Advance. Requests for Advance received by the Agent after the Agent's published deadlines will not be processed by the Agent as a Request for Warehouse Advance until the next Business Day.

(b) Disbursement of Bank's Warehouse Pro Rata Share. All Warehouse Advances requested by the Agent under this Credit Agreement shall be made by the Banks simultaneously and proportionately to their respective Warehouse Commitment Pro Rata Shares of each such Warehouse Advance, it being understood that, except as provided in Section 2.4(c) below, no Bank shall be responsible for any default by any other Bank of that other Bank's obligation to fund its Warehouse Commitment Pro Rata Share of a Warehouse Advance requested hereunder nor shall the Warehouse Line Commitment of any Bank be increased or decreased as a result of the default by any other Bank of that other Bank's obligation to fund its Warehouse Commitment Pro Rata Share of a Warehouse Advance requested hereunder. Promptly after receipt by the Agent of a Request for Advance pursuant to this Section 2.4, the Agent shall notify each Bank of the Warehouse Advance requested by the Company pursuant thereto and each Bank's Warehouse Commitment Pro Rata Share of such Warehouse Advance. Each Bank shall make its Warehouse Commitment Pro Rata Share of each Warehouse Advance (other than a Swing Advance or an Excess Advance) to be made to the Company available to the Agent, in same day funds, at the office of the Agent located at 101 South Fifth Street, Louisville, Kentucky not later than 3:00 p.m. Prevailing Time on the date the Request for Advance from the Company is received by the Agent. The time of the Agent's receipt of same day funds from the Banks which are wire transferred through the Federal Reserve System shall be based upon the Federal Reference Number and the "time out" for any such wire transfer. Upon satisfaction or waiver of the conditions precedent specified in Section 4.1 hereof in the case of the initial Advance and Section 4.2 hereof in the case of any subsequent Advance, the Agent shall make the proceeds of each Advance requested by the Company available to the Company on the date specified above by causing an amount of same day funds equal to the proceeds of the Banks' respective Warehouse Commitment Pro Rata Shares of such Warehouse Advance received by the Agent at its office located at the address set forth in the

preceding sentence to be credited to the Company; provided, however, with respect to each Wet Advance (whether in the form of a Warehouse Advance, Swing Advance or Excess Advance), the proceeds thereof shall be deposited into the Funding Account, and at the option of the Agent, be (i) wire transferred by the Agent through the Federal Reserve Wire Transfer System directly to the Company's agent responsible for closing the related Wet Loan, or if the Company closes its own Wet Loan, then directly to the Company or the Company's agent, (ii) funded by a draft or check on the Agent or one of its affiliates, which draft or check shall be made payable to the Company's agent responsible for closing the related Wet Loan, or if the Company closes its own Wet Loan, then directly to the Company or the Company's agent, (iii) funded by a cashier's check issued by the Agent on behalf of the Company and made payable to the Company's agent responsible for closing the related Wet Loan, or (iv) disbursed in such other manner as is acceptable to the Company and the Agent.

(c) Assumptions by Agent for Advances; Failure to Fund a Bank. Unless the Agent shall have been notified by any Bank prior to the date that such Bank's Warehouse Commitment Pro Rata Share of a Warehouse Advance is to be made (the "Funding Date") that such Bank does not intend to make available to the Agent such Bank's Warehouse Commitment Pro Rata Share of such Warehouse Advance requested on such Funding Date, the Agent may assume that such Bank has made such amount available to the Agent on such Funding Date and the Agent may, in its sole discretion, but shall not be obligated to, make available to the Company a corresponding amount on such Funding Date. If such corresponding amount is not in fact made available to the Agent by such Bank, the Agent shall be entitled to recover a Two Hundred Dollar (\$200.00) processing fee plus such corresponding amount owed on demand from such Bank together with interest thereon, for each day from such Funding Date until the date such amount is paid to the Agent, at the customary rate set by the Agent for the correction of errors among the Banks for three (3) Business Days and thereafter at the Default Rate. If such Bank does not pay such corresponding amount forthwith upon the Agent's demand therefor, the Agent shall notify the other Banks and each of the other Banks (including National City) shall immediately pay to the Agent a pro rata share (excluding in such calculation the Bank which failed to fund) of such amount not funded by a Bank; provided, however, no Bank (including National City) shall be obligated to fund any amount under this Credit Agreement in excess of that Bank's Warehouse Line Commitment, as applicable. If any portion of the amount not funded by a Bank is not paid to the Agent by the other Banks in accordance with the immediately preceding sentence, the Agent shall promptly notify the Company and the Company shall immediately pay such corresponding amount to the Agent and shall pay interest on such amount for each day from such Funding Date until the date such amount is paid to the Agent, at the applicable interest rate borne by the particular Advance, which amount shall be paid to the Agent at the next monthly billing. Nothing in this **Section 2.4** shall be deemed to relieve any Bank from its obligation to fulfill its Warehouse Line Commitment hereunder or to prejudice any rights that the Company may have against any Bank as a result of any default by such Bank hereunder. In the event any Bank gives notice to the Agent that such Bank does not intend to fund its Warehouse Commitment Pro Rata Share of any Warehouse Advance to be made to the Company or in the event any Bank otherwise fails to fund its Warehouse Commitment Pro Rata Share of any Warehouse Advance to be made to the Company, the Agent shall promptly notify the other Banks of the occurrence of any such event and the other Banks shall each fund a pro rata share (excluding in the calculation the nonfunding Bank) of the nonfunding Bank's Warehouse Commitment Pro Rata Share of each Advance not funded by such Bank; provided, however, no Bank shall be obligated to fund any amount under this Credit Agreement in excess of its Warehouse Line Commitment. In the event any Bank gives notice to the Agent that such Bank does not intend to fund its Warehouse Commitment Pro Rata Share of any Warehouse Advance to be made to the Company or in the event any Bank otherwise fails to fund its Warehouse Commitment Pro Rata Share of any Advance to be made to the Company, the Agent shall telephonically notify the Company of the occurrence of any such event. The Warehouse Commitment Pro Rata Share of principal payments (from any source whatsoever) payable hereunder to a Bank which fails to fund its

Warehouse Commitment Pro Rata Share of any Warehouse Advance, including any Warehouse Advance requested by the Agent to repay any Swing Advance or Excess Advance, shall be paid on a pro rata basis to the Banks which funded that Bank's Warehouse Commitment Pro Rata Share of such Warehouse Advance, Swing Advance or Excess Advance, as applicable, until the amount which those Banks funded for the Bank which failed to fund, has been repaid in full (the "Repayment Date"). Notwithstanding anything contained herein to the contrary, in the event that any Bank fails to fund its Warehouse Commitment Pro Rata Share of any Warehouse Advance on a Funding Date, if on such Funding Date all conditions precedent to such Warehouse Advance have been satisfied, such Bank shall forfeit all consent and voting rights for all purposes hereunder and under the other Loan Documents for the entire period of time commencing upon its failure to fund on the Funding Date and ending on the Repayment Date; provided, however, such forfeiture shall not apply to the right of a Bank to consent to any amendment or modification of this Credit Agreement or any other Loan Documents which requires the consent of the Agent and all of the Banks pursuant to terms of **Section 9.20** hereof.

## 2.5 Records.

(a) Advances. The Agent shall record the names and addresses of the Banks and the Pro Rata Shares of the Advances of each Bank from time to time in the records of the Agent. The Company, the Agent and the Banks may treat each Person whose name is so recorded in the records of the Agent as a Bank hereunder for all purposes of this Credit Agreement. The Agent's records maintained pursuant to this **Section 2.5** shall be available for inspection by the Company or any Bank at any reasonable time and from time to time upon reasonable prior notice to the Agent.

(b) Payments. The Agent shall record each repayment or prepayment in respect of the principal amount of the Banks' Pro Rata Shares in the Advances in the Agent's records. Any such recordation in accordance with the terms of this Credit Agreement shall be conclusive and binding on the Company absent manifest error; provided, that failure to make any such recordation, or any error in such recordation, shall not affect the Company's obligation to repay all Advances to the Banks in accordance with this Credit Agreement, the Warehouse Notes and the Swing Note.

(c) Bank's Records. Each Bank shall record on its internal records its Warehouse Commitment Pro Rata Share of each Warehouse Advance made by it to the Company and each payment in respect thereof. Any such recordation in accordance with the terms of this Credit Agreement shall be conclusive and binding on the Company absent manifest error; provided, that failure to make any such recordation, or any error in such recordation, shall not affect the Company's obligation to repay all Warehouse Advances to the Banks in accordance with this Credit Agreement, the Warehouse Notes and the Swing Note; provided further, that in the event of any inconsistency between the Agent's records and any Bank's records, the Agent's records shall govern in the absence of manifest or demonstrable error.

2.6 Certain Representations. Each Request for Advance shall be deemed to be the representation of the Company and of the officer making such request that: (a) all conditions precedent set forth in **Article 4** hereof have been satisfied; (b) the Company is in compliance with all financial

2.7 Payment of the Warehouse Notes.

(a) Termination Date. On the Termination Date, without necessity of notice or demand, the Company shall pay to the Agent for the account of the Banks the full amount of the outstanding principal balance of, and all accrued but unpaid interest on, the Warehouse Notes and the Swing Note.

(b) Warehouse Borrowing Base Deficiency. If, at any time, and for any reason, including without limitation a reduction in the Collateral Value or any part thereof by virtue of such value being marked to market, the sum of the Aggregate Outstanding Warehouse Balance plus the Aggregate Outstanding Excess Balance exceeds the Warehouse Borrowing Base, as determined by the Agent, then the Company shall immediately pay to the Agent an amount equal to the amount by which the sum of the Aggregate Outstanding Warehouse Balance plus the Aggregate Outstanding Excess Balance exceeds the Warehouse Borrowing Base.

(c) Proceeds of Collateral. The proceeds from the Collateral shall be payable to the Agent for application to the Warehouse Notes, the Swing Note and the other Secured Obligations under and in accordance with the terms of the Security Agreement.

2.8 Rates of Interest.

(a) Applicable Rates of Interest.

(i) With respect to all Advances other than Alt A Advances and HELOC/Second Trust Deed Advances, the Swing Note and the Warehouse Notes shall bear interest at the following rates of interest, as applicable: (a) the per annum rate equal to LIBOR plus three quarters of one percent (0.75%) for that portion of the aggregate outstanding principal balance of each Warehouse Note of each Bank which is not a Balance Funded Bank and for that portion of the aggregate outstanding principal balance of the Balance Funded Bank's Warehouse Note and the Swing Note which exceeds the Average Monthly Available Deposits maintained by the Company with the Balance Funded Bank, and (b) the per annum rate equal to one percent (1.00%) for that portion of the aggregate outstanding principal balance of the Warehouse Note payable to the Balance Funded Bank and the Swing Note which does not exceed the Average Monthly Available Deposits maintained by the Company with the Balance Funded Bank; and

(ii) With respect to Alt A Advances and HELOC/Second Trust Deed Advances, the Swing Note and the Warehouse Notes shall bear interest at the following rates of interest, as applicable: (a) the per annum rate equal to LIBOR plus one percent (1.00%) for that portion of the aggregate outstanding principal balance of the each Warehouse Note of each Bank which is not a Balance Funded Bank and for that portion of the aggregate outstanding principal balance of the Balance Funded Bank's Warehouse Note and the Swing Note which exceeds the Average Monthly Available Deposits maintained by the Company with the Balance Funded Bank, and (b) the per annum rate equal to one and one-quarter of one percent (1.25%) for that portion of the aggregate outstanding principal balance of the Warehouse Note payable to the Balance Funded Bank and the Swing which does not exceed the Average Monthly Available Deposits maintained by the Company with the Balance Funded Bank.

2.9 Interest Payments. As soon as reasonably possible subsequent to the availability of the account analysis statement, the Agent shall deliver to the Company and each Bank an interest billing statement (the "Billing Statement"), which Billing Statement shall set forth the interest accrued with respect to the outstanding principal balance of the Warehouse Notes and the Swing Note from and including the first

day of the preceding month through the last day of such month, provided, that any failure or delay in delivering such interest billing statement or any inaccuracy therein shall not affect any of the Company's obligations and liabilities hereunder. Interest shall be payable, (i) on the fifth (5th) calendar day after receipt of the Billing Statement referred to above and (ii) upon repayment of any of the outstanding principal balance of the Swing Note and the Warehouse Notes at maturity (by reason of acceleration or otherwise). Any interest accruing at the Default Rate shall be payable on demand.

2.10 Post-Maturity Interest. Any principal payments on the Swing Note and the Warehouse Notes not paid when due and, to the extent permitted by applicable law, any interest payments on the Swing Note and Warehouse Notes or any fees or other amounts owed hereunder not paid when due, in each case whether at stated maturity, by notice of prepayment, by acceleration or otherwise, shall thereafter bear interest (including post-petition interest in any proceeding under the Bankruptcy Code or other applicable bankruptcy laws) payable on demand at a rate equal to the applicable Default Rate. Payment or acceptance of the increased rates of interest provided for in this **Section 2.10** is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of the Agent or any Bank.

2.11 Computation of Interest. Interest on the Warehouse Advances, Excess Advances and Swing Advances shall be computed on the basis of a 360-day year, in each case for the actual number of calendar days elapsed in the period during which it accrues.

2.12 General Provisions Regarding Prepayments and Payments.

(a) Prepayments. The Company may, at any time and from time to time, prepay all or any portion of the outstanding principal balance of the Warehouse Notes without premium or penalty. All prepayments (whether voluntary or involuntary, at maturity, by acceleration or otherwise) of the outstanding principal balance of the Notes shall be applied, first, to the repayment of the outstanding principal balance of Swing Note to the full extent thereof, second, to the repayment of this outstanding principal balance of all Excess Advances, third, to any delinquent fees, costs or expenses, fourth, to the repayment of the outstanding principal balance of all Warehouse Advances, and fifth, to the payment of the interest thereon. All prepayments of the outstanding principal balance of the Warehouse Notes shall be applied first to principal bearing interest at the applicable interest rate to the full extent thereof, in a manner which minimizes the amount of any payments required to be made by the Company pursuant to this **Section 2.12** hereof.

(b) Manner and Time of Payment. All payments of principal, interest and fees hereunder, under the Swing Note and under the Warehouse Notes by the Company shall be made without defense, setoff and counterclaim and upon the Agent's receipt of notice from the Company, which notice shall not be given later than the fifth (5th) calendar day after the Company's receipt of the Billing Statement under **Section 2.9** hereof, the Agent shall be authorized to charge the Company's "DDA Account" maintained at National City (Account #986649569) to pay all principal (to the extent that the funds in the Collateral Proceeds Account are not sufficient to make a payment of principal), interest and fees due hereunder, provided there are sufficient funds available in such account for that purpose. If there are not sufficient funds available in such account for that purpose or if the Agent has not received notice from the Company authorizing the Agent to charge the Company's "DDA Account", the Company shall make such payments in same day funds and delivered to the Agent not later than 12:00 p.m. Prevailing Time on the day following the date due at its office located at 101 South Fifth Street, Louisville, Kentucky, for the account of the Banks; funds received by the Agent after that time shall be deemed to have been paid by the Company on the next succeeding Business Day.

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(c) Apportionment of Payments. Except as otherwise provided herein, the Agent shall apportion all principal and interest payments on the Warehouse Notes, in each case proportionately to the Banks' respective Warehouse Pro Rata Shares. The Agent shall promptly distribute to each Bank at its primary address set forth below its name on the appropriate signature page hereof or such other address as any Bank may request, its Warehouse Pro Rata Share of all such payments when received by the Agent.

(d) Payments on a Business Day. Whenever any payment to be made hereunder or under the Warehouse Notes or the Swing Note shall be stated to be due on a day that is not 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 the payment of interest on the underlying principal payment due hereunder, under the Swing Note or under the Warehouse Notes or of the fees hereunder, as the case may be.

2.13 Set-Off. The Company hereby irrevocably authorizes each Bank, upon the occurrence of an Event of Default to set off the liability of the Company on the Warehouse Notes and the Swing Note, without notice, against all deposits and credits of the Company with, and any and all claims of the Company against, that Bank at any time outstanding provided, however, that the Banks shall not offset against deposits and credits of the Company held in trust or in a custodial capacity for third parties.

2.14 Fees.

(a) Collateral Handling/Commitment Fee. The Company agrees to pay to the Agent such collateral handling fees (collectively, the "Collateral Handling Fees") and the commitment fee (the "Commitment Fee") in the amounts and at the times set forth in the fee letter issued by the Agent to the Company.

(b) Amendment Fees. The Company agrees to (i) reimburse the Agent for all legal fees reasonably incurred in connection with any amendment to the Loan Documents and (ii) pay to each of the Banks an amendment fee equal to Three Hundred Seventy Five Dollars (\$375.00) for each amendment to the Loan Documents; provided, however, the Company shall not be required to pay such \$375.00 amendment fee to any of the Banks in connection with any amendment of the Loan Documents which is executed (either individually or as part of a series of amendments) for the sole purpose of extending the Termination Date for not more than an aggregate of one hundred twenty (120) days. Nothing contained in this **Section 2.14** shall compel the Agent or the Banks to authorize or execute any amendment to the Loan Documents, all such amendments being subject to the complete discretion of the Agent and the Banks.

(c) Payment of Fees. All fees due under this **Section 2.14** shall be payable in arrears each month and all such fees shall be computed on the basis of a 360-day year, in each case for the actual number of calendar days elapsed during the period during which it accrues. The Agent shall compute the amounts of the applicable fees include such fees on the Billing Statement to be delivered to the Company each month under **Section 2.9** hereof. The Company shall pay to the Agent the applicable fees set forth in such Billing Statement within five (5) calendar days of its receipt of a Billing Statement.

(d) Fees Non-Refundable. The fees payable under this **Section 2.14** once paid shall be non-refundable, in whole or in part under any circumstances, absent manifest error in the calculation of such fees.

2.15 Commitments. The Company shall obtain and maintain Commitments which, in the aggregate, equal or exceed the aggregate amount of all Loans financed and outstanding under this Credit Agreement and all loans under credit agreements of similar nature with other financial institutions. If an Event

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of Default shall occur and continue, at the option of the Agent or the Requisite Banks, such Commitments shall be assigned by the Company to the Agent, for the benefit of the Banks in proportion to their Pro Rata Shares.

2.16 Special Provisions Governing Base Rate.

(a) Notwithstanding any other provision of this Credit Agreement to the contrary, the Agent's determination of LIBOR shall be final, conclusive and binding upon all parties in the absence of manifest error. In the event that (i) it becomes unlawful for the Agent or any Bank to make or maintain LIBOR loans, or (ii) by reasons of circumstances occurring after the date of this Credit Agreement affecting the London Interbank Market, adequate and fair means do not exist for ascertaining LIBOR on the basis provided for in the definition thereof, the Agent or such Bank shall promptly notify Company, and Agent's or such Bank's obligation to offer such LIBOR loans shall be suspended during such period of time.

(b) In the event any applicable law, order, regulation, treaty or directive issued by any central bank or other governmental authority, or in the governmental or judicial interpretation thereof, or compliance by the Agent with any request or directive (whether or not having the force of law) issued subsequent to the date hereof by any central bank or other governmental authority:

(i) does or shall subject the Agent or any Bank to any tax of any kind whatsoever with respect to this Credit Agreement or any Advances made hereunder, or change the basis of taxation of payments to the Agent or any Bank of principal, fee, interest or any other amount payable hereunder except for the change in the rate of tax on the overall net income of the Agent or any Bank imposed by the jurisdiction in which Agent or any Bank maintains its principal office; or

(ii) does or shall impose on the Agent or any Bank any other condition; and the result of any of the foregoing is to materially increase the cost to the Agent or any Bank of making any Advance or renewing or maintaining this Credit Agreement or reduce any amount receivable in respect thereof or to reduce the rate of return on the capital of the Agent or any Bank or any Person controlling the Agent or any Bank, then in any such case, the Company shall promptly pay to the Agent or any Bank upon its written demand any additional amounts necessary to compensate the Agent or any Bank for such additional cost or reduced amounts receivable or rate of return as reasonably determined by Agent or any Bank with respect to this Credit Agreement or Advances made hereunder. If the Agent or any Bank becomes entitled to claim any additional amounts pursuant to this section, it shall promptly notify the Company of the event by reason of which it has become so entitled and provide the Company with a certificate specifying any additional amounts payable and how they are calculated. If the Company reasonably elects to discontinue requesting Advances hereunder and terminates the Warehouse Line as a result of any additional amounts the Company it is reasonably determined by the Agent or any Bank to owe pursuant to the provisions of this Section 2.16(b)(ii), the Agent and the Banks agree to refund a pro-rata portion of the Commitment Fee theretofore paid by the Company to the Banks for the current period. The provisions of this section shall survive the termination of this Credit Agreement and payment of all other Secured Obligations.

2.17 Certain Representations. Each Request for Advance shall be deemed to be the representation of the Company and of the officer making the request that: (a) all conditions precedent set forth in Article 4 hereof have been satisfied; (b) the Company is in compliance with all financial covenants set forth in Article 5 hereof; (c) the representations and warranties contained in Article 6 hereof remain true and correct in all material respects; and (d) no Event of Default and no Unmatured Event of Default has occurred and is then existing, or will exist upon completion of the requested Advance.

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2.18 Discretionary Loans. For each Loan that the Requisite Banks or the Agent agrees to warehouse pursuant to Section 9.20 hereof, that is not a Wet Loan, the Company agrees to pay an interest premium of one-half of one percent (0.50%) in addition to the applicable rate of interest pursuant to Section 2.8(a) hereof, as may be the case.

### ARTICLE 3

#### COLLATERAL SECURITY

3.1 Collateral. To secure the payment of the Warehouse Notes, the Swing Note and all other Secured Obligations, the Company shall grant to the Agent for the ratable benefit of the Banks in proportion to their Pro Rata Shares, Security Interests in such of its Loans, and other assets constituting Collateral as may be required under the terms of the Security Agreement.

3.2 Security Agreement. The Company shall execute and deliver to the Agent for the ratable benefit of the Banks in proportion to their Pro Rata Shares, the Security Agreement.

3.3 Priority of Security Interests. The Security Interests shall be first and prior security interests subject only to the limitations set forth in the Loan Documents. The Company, the Agent and the Banks hereby acknowledge and agree that the Agent, on behalf of and for the pro rata benefit of the Banks, now has, and shall continue to have, a first and prior pledge and security interest in and to the Collateral, as collateral security for the Warehouse Advances, the other Secured Obligations, and any other obligations and/or liabilities due and owing by the Company pursuant to this Credit Agreement and each of the other Loan Documents, without priority, distinction or preference of any kind whatsoever.

3.4 Release of Security Interest. If no Event of Default or Unmatured Event of Default has occurred and is then continuing, the Agent, for and on behalf of the Banks, at the request of the Company, shall release its Security Interest in any item of Collateral so long as after giving effect to any such requested release the Warehouse Borrowing Base shall not be less than the sum of the Aggregate Outstanding Warehouse Balance plus the Aggregate Outstanding Excess Balance, provided that any such release of Collateral shall occur only if expressly permitted by the terms of the Security Agreement, and then only strictly in compliance with the terms thereof.

### ARTICLE 4

#### CONDITIONS PRECEDENT

4.1 Closing; Initial Advance. The obligation of the Agent and the Bank to close the financing contemplated hereunder and make the initial Advance under this Credit Agreement shall be subject to the satisfaction of the following conditions precedent:

(a) Evidence of Corporate Existence and Qualification of the Company. The Company shall have furnished the Agent with a copy of the Company's Articles of Incorporation and all amendments thereto, certified by the Secretary of State of California, together with an original certificate from said Secretary of State, dated not more than thirty (30) calendar days prior to the date of this Credit Agreement, stating that the Company is a corporation duly organized, validly existing, and in good standing under the laws of such state, and a copy of the Bylaws of the Company and all amendments thereto, certified by the secretary of the Company to be true, accurate and complete.

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(b) Corporate Resolutions. The Company shall have furnished to the Agent copies of updated resolutions reflecting all necessary corporate action taken by the Company to authorize the execution, delivery, and performance of the Credit Agreement, the Warehouse Note, and the other Loan Documents to which the Company is a party on behalf of the Company, certified by the secretary of the Company to be true, correct, and in full force and effect as of the date of the Credit Agreement.

- (c) Incumbency Certificate. The Company shall have furnished the Agent with updated incumbency certificates with respect to the officers of the Company, as applicable, authorized to execute and deliver the Credit Agreement and the other Loan Documents to which the Company is a party on behalf of the Company.
- (d) Credit Agreement. This Credit Agreement shall have been duly executed and delivered by the Company, the Agent and the Banks and delivered to the Agent.
- (e) Notes. The Warehouse Note shall have been duly executed and delivered by the Company and delivered to the Bank.
- (f) Loan Documents. All of the other Loan Documents shall have been duly executed and delivered by the Company and each of the other parties thereto and delivered to the Agent.
- (g) Financing Statements. The Company shall have executed and delivered, in appropriate form for filing in all appropriate governmental offices, such Uniform Commercial Code financing statements with respect to the Collateral as the Agent shall reasonably request.
- (h) Evidence of Insurance. The Company shall have furnished the Agent with evidence of the insurance coverage required to be maintained by the Company pursuant to Section 7.1(i) hereof.
- (i) Financial Statements. The Company shall have furnished the Agent with a copy of its audited financial statements as at December 31, 2006, and its most recent unaudited statements.
- (j) Termination Statements and Releases. All Uniform Commercial Code Termination Statements and releases necessary to release of record all existing liens and security interests encumbering any of the Collateral other than those in favor of the Agent on behalf of and for the benefit of the Banks, duly executed and delivered by all appropriate or necessary parties.
- (k) UCC Search Reports. UCC Search Reports in the name of the Company shall have been obtained from all appropriate government offices.
- (l) Agency Audits. The Company shall have furnished the Agent with a copy of the results of any field audit of the Company's business and/or records performed by GNMA, Fannie Mae, FHLMC, for the Department of Housing and Urban Development within two (2) years prior to the date of this Credit Agreement, together with a copy of all subsequent correspondence relating to such audit between the Company and such agency, to the extent copies of such field audits have not been heretofore delivered to the Agent.
- (m) Other Loans. The Company shall furnish the Agent with a summary description of any and all existing loan agreements, lines of credit or similar indebtedness of the Company for

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amounts of One Million Dollars (\$1,000,000.00) or more to which the Company is a party, such summary shall be provided as a part of Schedule 6.1.

- (n) Covenant Compliance Certificate. The Company shall have furnished the Agent with a completed Covenant Compliance Certificate as of the initial closing date, together with a spreadsheet or other working papers showing the calculations used to prepare such certificate.
- (o) Authorized Signer Letter. The Company shall have delivered to the Agent a letter designating the individuals authorized to sign various documents or initiate, authorize and/or confirm electronic communications related to the transactions contemplated hereby, including without limitation, specimen signatures and electronic mail addresses for all such individuals, such letter to be substantially in the form of Exhibit J attached hereto and made a part hereof by this reference.
- (p) Power of Attorney. The Power of Attorney, substantially in the form of Exhibit B to the Security Agreement, shall have been duly executed and delivered by the Company to the Agent.
- (q) Approved Investor List. The Company shall have provided the Agent with the list of Approved Investors to be attached hereto as Schedule 1.1.
- (r) Representation and Warranty Disclosures. The Company shall have provided the Agent with the list of representation and warranty disclosures to be attached hereto as Schedule 6.1.
- (s) Other Documents. The Company shall have delivered such other documents or instruments or reports including, without limitation, any inter-creditor agreements, as the Agent may reasonably request.
- (t) Field Exam and Legal Fees. The Company shall have reimbursed the Agent for (1) the cost of its field exam performed prior to the Closing Date and (2) legal fees and expenses incurred in connection with the preparation, execution and delivery of the Loan Documents up to a maximum dollar amount of Four Thousand Dollars (\$4,000.00).

4.2 All Advances. The obligation of the Banks to make their Pro Rata Share of any Advance (including the initial Warehouse Advance), and the Agent's election to make any Swing Advance or any Excess Advance hereunder shall be subject to each of the following conditions precedent:

- (a) Covenant Compliance Certificate. In accordance with the provisions of Section 7.3(b) below, the Company shall have executed and delivered to the Agent a completed Covenant Compliance Certificate, together with a spread sheet or other working papers showing the calculations used to prepare such certificate.
- (b) No Default or Unmatured Event of Default. As of the date of the making of such Advance, no Event of Default or Unmatured Event of Default shall have occurred and be then existing.

(c) Compliance with Loan Documents. The Company shall be in full compliance with all material conditions and provisions of this Credit Agreement, the other Loan Documents, and all related instruments and documents.

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(d) No Adverse Change. No material adverse change shall have occurred in the condition of the Company, financial or otherwise, or in the earnings or affairs of the Company, since the date of this Credit Agreement.

(e) Representations and Warranties. The representations and warranties contained in **Article 6** of this Credit Agreement and in the Security Agreement shall be true and correct in all material respects on the date of such Advance with the same force and effect as though made on and as of that date.

## ARTICLE 5

### FINANCIAL COVENANTS

So long as any portion of the Advances made under this Credit Agreement remains unpaid or this Credit Agreement continues in effect, unless the Agent and all of the Banks otherwise consent in writing, the Company shall abide by each of the following covenants:

5.1 Borrowing Base. The sum of the Aggregate Outstanding Warehouse Balance **plus** the Aggregate Outstanding Excess Balance shall not exceed the Warehouse Borrowing Base.

5.2 Leverage Ratio. The ratio of Total Indebtedness to Tangible Net Worth shall not exceed 10 to 1.

5.3 Tangible Net Worth. The Tangible Net Worth of the Company shall at all times be greater than the sum of Forty-Five Million Dollars (\$45,000,000.00).

5.4 Liquidity. The Company shall at all times maintain a minimum of Fourteen Million Dollars (\$14,000,000.00) of Liquid Assets on its balance sheet.

The parties hereto acknowledge and agree that in the event that any of the foregoing covenants are materially changed as a result of a change in GAAP, the Banks, the Agent and the Company will amend the terms of this **Article 5** to accurately reflect the agreement among the Banks, the Agent and the Company with respect to such financial covenants prior to such change in GAAP.

## ARTICLE 6

### REPRESENTATIONS AND WARRANTIES

To induce the Agent and the Banks to enter into this Credit Agreement and to make Advances pursuant thereto, the Company represents and warrants to the Agent and the Banks as follows, which representations and warranties shall survive the execution and delivery of this Credit Agreement and shall be deemed to be continuing representations and warranties until the Warehouse Notes, the Swing Note, and the other obligations herein have been respectively paid in full to the Agent and the Banks and this Credit Agreement has been fully terminated:

6.1 Corporate Organization and Good Standing. The Company is a corporation duly incorporated, validly existing and in good standing under the laws of the State of California, and it has the requisite power and authority to own its properties and to conduct its business in the manner in which such

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business is presently conducted. The correct legal name of the Company, its state of incorporation, and the correct address of its principal place of business are set forth in **Schedule 6.1** to this Credit Agreement.

6.2 Qualification. The Company is duly qualified to transact business and is validly existing and in good standing as a foreign corporation in every foreign jurisdiction where the failure to so qualify would materially and adversely affect the Company's business or its properties.

6.3 Power and Authority. The Company has the requisite power and authority, corporate and otherwise, to enter into this Credit Agreement, to make the borrowings herein contemplated, to execute and deliver the Notes and the other Loan Documents to which it is a party, and to perform its obligations hereunder and thereunder, all of which have been duly authorized by all proper and necessary corporate action, and the same do not and will not:

(a) violate or conflict with any provision of the articles of incorporation or bylaws of the Company;

(b) violate or conflict with the provisions of any agreement, law, rule, regulation, order, writ, judgment, injunction, decree, determination or award to which either the Company is a party or by which it or its property is bound, and that would materially and adversely affect the Company;

(c) result in, or require the creation or imposition of, any lien, pledge, security interest, charge or encumbrance of any nature upon or with respect to any property now or hereafter owned by the Company or any Guarantor, other than such encumbrances as contemplated by the Security Agreement; or

(d) conflict with, result in a breach of, or constitutes default under, any indenture, loan agreement, credit agreement, or any other agreement or instrument to which either the Company is a party or by which it or its property is bound, and that would materially and adversely affect the Company.

6.4 **Binding Effect.** This Credit Agreement, the Notes and the other Loan Documents to which the Company is a party are valid, binding, and legally enforceable obligations of the Company in accordance with their respective terms (subject only to limitations as to enforceability which might result from bankruptcy, reorganization, insolvency, or other similar laws affecting creditors' rights generally).

6.5 **Financial Condition.** The Company's audited financial statements as at December 31, 2006 (which have been prepared in conformity with GAAP applied on a basis consistent with that of the preceding fiscal year), and its most recent unaudited financial statements, copies of which have been furnished to the Agent and the Banks, pursuant to **Section 4.1(i)** of this Credit Agreement, present fairly the financial condition of the Company as at such dates and the results of their operations for the period then ended. There has been no material adverse change in said financial condition except as disclosed in **Schedule 6.1** to this Credit Agreement. The Company does not have any contingent obligations, liabilities, taxes, or other outstanding financial obligations which are material in the aggregate, except as described in **Schedule 6.1** to this Credit Agreement.

6.6 **Properties.** The Company has good and marketable title to all of its properties and assets, and none of its assets are subject to any mortgage, pledge, title retention lien, security interest, or encumbrance, except for those permitted by **Section 7.2(g)** hereof and those described in **Schedule 6.1** to this Credit Agreement.

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6.7 **Litigation.** No litigation, delinquent tax claim, proceeding, dispute, or governmental proceeding is pending or, to its knowledge, threatened in writing against the Company, which (a) in the opinion of the Company, may have a material adverse effect on the business or condition (financial or other), affairs, or operations of the Company, or (b) involves or may affect the validity or enforceability of any Loan Document or the perfection or priority of any lien created thereby, except those matters described in **Schedule 6.1** to this Credit Agreement.

6.8 **Purpose of Advances; Regulations U and X.** No part of the proceeds of the borrowings hereunder will be used for any purpose other than financing Loans. No part of the proceeds for the borrowings hereunder will be used to purchase or carry any margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System) or to extend credit to others for the purpose of purchasing or carrying any margin stock, and the Company is not engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any such margin stock. If requested by the Agent or any Bank, the Company will furnish such Agent or Bank with a statement in conformity with the requirements of Federal Reserve Form U-1 referred to in said Regulation. The Company also warrants that no part of the proceeds of the borrowings hereunder will be used by it for any purpose which violates, or which is inconsistent with, the provisions of Regulation X of said Board of Governors.

6.9 **Investment Company Act.** The Company is not an investment company or a company controlled by an investment company within the meaning of the Investment Company Act of 1940, as amended.

6.10 **Securities Act.** The Company has not issued any unregistered securities in violation of the registration requirements of the Securities Act of 1933, as amended, or of any other law, and is not violating any rule, regulation, or requirement under the Securities Act of 1933, as amended, or the Securities and Exchange Act of 1934, as amended. The Company is not required to qualify an indenture under the Trust Indenture Act of 1939, as amended, in connection with its execution and delivery of the Warehouse Notes, or the Swing Note.

6.11 **Permits; Consents, Compliance, etc.** The Company has all necessary certificates, licenses, authorizations, registrations, permits and approvals necessary to own and operate its property and to conduct its business as it is currently being conducted. No consent, approval or authorization of, or registration, declaration, or filing with, any governmental authority is required on the part of the Company in connection with the execution and delivery of this Credit Agreement, the Notes or the other Loan Documents (other than filings to perfect the Security Interests), or in connection with the performance of or compliance with the terms, provisions, and conditions hereof except for those that have been obtained. The Company is in compliance with all applicable statutes, regulations and orders of, and all applicable restrictions imposed by, all governmental bodies and agencies in respect of the conduct of its business and the ownership of its property. Each Loan at the time it was originated complied in all material respects with applicable local, state and federal laws, including, but not limited to, all applicable predatory and abusive lending laws. None of the Loans are "high cost", "high rate", "high fee" or "predatory" as defined by the applicable predatory and abusive lending laws.

6.12 **ERISA.** No fact or circumstance, including but not limited to any Reportable Event within the meaning of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), exists in connection with any Plan of the Company ("Plan" shall mean an employee pension benefit plan or pension covered by ERISA which is guaranteed by the Pension Benefit Guaranty Corporation or any successor thereto) which might constitute grounds for the termination of any such Plan by the Pension Benefit Guaranty

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Corporation or any successor thereto or for the appointment of a trustee to administer any such Plan. For purposes of this representation and warranty, the Company shall be deemed to have knowledge of all facts attributable to any administrator of any such Plan.

6.13 **Affiliates.** The correct legal name of each Affiliate, the state of its organization (or, if a natural person, of his or her domicile), and the percentage of such Affiliate's capital stock or equity that is directly or indirectly owned by the Company or the percentage of the Company's stock which is directly or indirectly owned by each Affiliate, as applicable, are set forth in **Schedule 6.1** to this Credit Agreement.

6.14 **Tax Returns and Payments.** The Company has filed all tax returns (or allowable extension requests) required by law to be filed by it and has paid all taxes, assessments and other governmental charges levied upon its properties, assets, income and franchisees, other than those not yet delinquent and those, not substantial in aggregate amount, which are being contested in good faith by the Company. The charges, accruals and reserves on the books of the Company in respect of their taxes are adequate in the opinion of the Company. The Company knows of no material unpaid assessment for additional taxes or any basis for such assessment.

6.15 No Defaults. The Company is not in default in the payment or performance of any of its obligations or in the performance of any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which it is a party or by which it or any of its assets may be bound, which default would have a material adverse effect on the business, operations, assets or condition, financial or otherwise, of the Company, taken as a whole. No Event of Default or Unmatured Event of Default hereunder or under the other Loan Documents has occurred and is continuing. The Company is not in default under any order, award or decree of any court, arbitrator or governmental authority binding upon or affecting it or by which any of its assets may be bound or affected which default would have a material adverse effect on the business of the Company. The Company is not subject to any order, award or decree which is likely to materially adversely affect the ability Company to carry on its business as currently conducted or the ability of the Company to perform its obligations under this Credit Agreement, the Notes or the other Loan Documents to which it is a party.

6.16 Holding Company. The Company is not a “holding company” or a “subsidiary company” of a “holding company”, within the meaning of the Public Utility Holding Company Act of 1935, as amended.

6.17 Contingent Obligations. The Company does not have on the date hereof any material contingent obligations, material liabilities for taxes, material long-term leases or unusual material forward or long-term commitments, which have not been disclosed to the Agent in writing prior to the date of this Credit Agreement and which would have a material adverse effect on the business, operations, assets or condition, financial or otherwise, of the Company, taken as a whole.

6.18 No Violations. The Company is not a party to any contract or agreement or subject to any charter or other corporate restriction which materially and adversely affects its business, property or financial condition. The execution, delivery and performance of this Credit Agreement, the Notes and the other Loan Documents to which the Company is a party will not result in the violation of or be in conflict with or constitute a default under the Articles of Incorporation or Bylaws of the Company or any term or provision of any mortgage, loan agreement or other instrument, or any judgment, decree, governmental order, statute, rule or regulation, by which the Company is bound or to which any of its assets is subject and will not result in the creation or imposition of any lien on the assets of the Company except as contemplated by this Credit Agreement. The Company is not a party to, or otherwise subject to any provision contained in, any

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instrument evidencing indebtedness of the Company, any agreement relating thereto or any other contract or agreement (including its Articles of Incorporation) which restricts or otherwise limits the incurring of the indebtedness to be represented by this Credit Agreement, the Notes and the other Loan Documents.

6.19 Disclosure; Solvency. Neither this Credit Agreement nor any other document furnished to the Agent or the Banks by or on behalf of the Company in connection with the credit facilities contemplated herein contains any statement of any material fact which is untrue or misstates a material fact necessary in order to make the statements contained herein or therein, in light of the circumstances in which they were made, not misleading. There is no fact known to the Company which materially adversely affects or in the future will (so far as the Company can now foresee) materially adversely affect the business, operations, affairs or condition of the Company or any of its or his properties which has not been set forth in this Credit Agreement or in the other documents furnished to the Agent or to the Banks by or on behalf of the Company in connection with the credit facilities contemplated herein. The Company is currently solvent; and neither the issuance and delivery of the Warehouse Notes or the Swing Note, nor the performance of the transactions contemplated hereunder or thereunder, will render the Company insolvent, inadequately capitalized to undertake the transactions contemplated hereunder or to undertake the businesses in which it is presently engaged or about to engage or render the Company unable to pay its or his debts as they become due; the Company is not contemplating either the filing of a petition by it or him or the commencement of a case by it or them under any state or federal bankruptcy or insolvency laws or the liquidation of all or a major portion of its property; and neither the Company has no knowledge of any Person contemplating the filing of any such petition or commencement of any such case against the Company.

## ARTICLE 7

### COVENANTS

7.1 Affirmative Covenants. So long as any portion of the Secured Obligations under this Credit Agreement, including the Notes, remains unpaid or this Credit Agreement continues in effect, unless all of the Banks otherwise consent in writing, the Company shall abide by each of the following covenants and agreements:

(a) Payment and Performance of Obligations. The Company will pay all principal, interest, fees, and other charges with respect to the Notes and any other obligations when and as the same become due and payable, will strictly observe and perform all covenants, agreements, terms, conditions, and limitations contained in this Credit Agreement, the Notes and the other Loan Documents, and will do all things necessary to prevent any forfeiture or impairment of the Agent’s or a Bank’s rights hereunder or thereunder, and to prevent the occurrence of any Event of Default or an Unmatured Event of Default.

(b) Notice of Default. The Company shall promptly notify the Agent in writing of the occurrence of any Event of Default or Unmatured Event of Default, specifying in connection with such notification all actions proposed to be taken to remedy such circumstance.

(c) Notice of Non-Payment. The Company shall notify the Agent in writing of the occurrence of any failure or refusal by the Company to pay any amount in excess of One Hundred Thousand Dollars (\$100,000.00) payable under any agreement to which it or they are a party (other than trade payables less than sixty (60) calendar days past due), within ten (10) calendar days of such failure or refusal, unless the Company is diligently and in good faith contesting their obligations to make such payment by appropriate action.

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(d) Notice of Legal Proceedings. The Company shall, promptly upon becoming aware of the existence thereof, notify the Agent in writing of the institution of any litigation or legal proceeding with any person or tribunal, that might materially and adversely affect the condition, financial or otherwise, or the earnings, affairs or properties of the Company.

(e) Continuation of Primary Business. The Company shall continue to maintain the character of its primary business as currently conducted.

(f) Maintenance of Corporate Existence, Qualification and Assets. The Company shall at all times maintain (i) its legal existence as a corporation; (ii) its qualification to transact business and good standing as a foreign corporation in all jurisdictions where the failure to so qualify would materially and adversely affect the nature of its properties or the conduct of its businesses; and (iii) all franchises, licenses, rights, and privileges necessary for the proper conduct of its businesses.

(g) Maintenance of Security. The Company shall execute and deliver to the Agent for the benefit of the Banks all mortgages, security agreements, financing statements, assignments, and such other documents and instruments, and all supplements thereto, and continuation statements thereof, and take such other actions as the Agent deems reasonably necessary in order to maintain as valid, enforceable, and first priority liens and Security Interests granted to the Agent for the ratable benefit of the Banks.

(h) Payment of Taxes and Claims. The Company shall pay all taxes (or file for an allowable extension) imposed upon it or them or upon any of its or their properties or with respect to its or their franchises, business, income, or profits before any material penalty or interest accrues thereon. The Company shall also pay all material claims (including without limitation claims for labor, services, materials, and supplies) for sums which have or shall become due and payable and which by law have or might become a vendors lien or a mechanics, laborers', materialmen's, statutory, or other lien affecting any of its properties; provided, however, that the Company shall not be required to pay any such taxes or claims if (i) the amount, applicability, or validity thereof is being contested in good faith by appropriate legal proceedings promptly initiated and diligently conducted; and (ii) the Company shall have set aside on its books reserves (segregated to the extent required by generally accepted accounting principles) adequate with respect thereto.

(i) Maintenance of Insurance. The Company shall at all times maintain, or cause to be maintained, insurance covering such risks as is customarily carried by prudent businesses similarly situated, including, without limitation, hazard, general liability, fidelity, errors and omissions, and blanket bond coverages in conformity with the requirements set forth in Section 2.7 of the GNMA Mortgage-backed Securities Guide, Handbook 5500.3. All such insurance shall be written naming the Agent, for the benefit of the Banks, as additional insured or loss payee, as applicable. Upon the request of the Agent, the Company shall provide the Agent with a certificate or certificates from one or more reputable insurance companies setting forth the amount or amounts of coverage and containing an agreement from each such insurance company that no termination, expiration, cancellation, or lapse of any such insurance policy shall occur without at least thirty (30) calendar days advance written notice to the Agent.

(j) Compliance with Laws and Agreements; Taxes. The Company shall comply with the provisions of any laws and the provisions of any agreements material to its or their businesses and operations and shall maintain its abilities to perform its obligations under all agreements material to its businesses and operations. The Company will promptly pay and discharge all lawful taxes (or file for an allowable extension), assessments and governmental charges or levies imposed upon it or upon or in respect of all or any part of its property or business and all claims for work, labor or materials which, if unpaid, might become a lien upon any of its assets material to the Company taken as a whole unless permitted by **Section**

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**7.2(g)** hereof or otherwise agreed to by the Requisite Banks; provided the Company shall not be required to pay any such tax, assessment, charge, levy, account payable or claim if (i) the validity, applicability or amount thereof is being contested in good faith by appropriate actions or proceedings which will prevent the forfeiture or sale of any property of the Company or any material interference with the use thereof by the Company, and (ii) the Company shall set aside on its books reserves deemed by the Company in its reasonable business judgment to be adequate with respect thereto or such greater amount as may be required by GAAP.

(k) Inspections. The Company shall, at any reasonable time and from time to time upon reasonable prior notice, permit any agents or representatives of the Agent and/or the Banks to inspect, examine, and make copies of and abstracts from its records and books of account, and to discuss its affairs, finances, and accounts with any of its officers, management employees, or independent public accountants (and by this provision the Company hereby authorizes said accountants to discuss with the Agents and the Banks and their respective agents or representatives the Company's affairs, finances, and accounts). The Company shall have the right to have a representative present at any of the inspections, examinations or discussions conducted by the Agent and/or the Banks; provided, however, the Agent and/or the Banks shall not be required to delay any of such inspections, examinations or discussions to accommodate the presence of such representative or representatives.

(l) Records. The Company shall keep accurate records and books of account reflecting all of its financial transactions, in which complete entries shall be made in accordance with generally accepted accounting principles consistently applied.

(m) ERISA. There is no Plan maintained or adopted by the Company.

(n) Further Assurances. The Company shall execute and deliver such other and further instruments, documents, or assurances as in the judgment of the Banks may be reasonably required to more effectively create or perfect the Security Interests or to confirm or evidence the obligations imposed by the terms and provisions of this Credit Agreement, the Notes and the other Loan Documents.

(o) Change in Name or Location. The Company shall notify the Agent in writing at least thirty (30) calendar days in advance of any change in location of its principal place of business, or place where records are kept, or of any proposed change of corporate name. To the extent not in the physical possession of the Agent, the Collateral and all books and records pertaining thereto shall be maintained and stored at the location specified on **Schedule 6.1** to this Credit Agreement, and the Company shall not remove any part of the Collateral from such location, other than temporarily in the ordinary course of business, unless the Company shall have provided the Agent with prior written notification of such change in location in accordance with the terms of this section and shall have assisted the Agent in filing such security agreements, financing statements, or other notices deemed necessary by the Agent to preserve and maintain the continued validity, enforceability, and priority Banks' lien on and Security Interest in the Collateral.

(p) Other Loan Agreements. The Company shall obtain the prior written consent of the Agent written notice at least fifteen (15) calendar days prior to entering into any other loan agreement similar in purpose or effect to this Credit Agreement. Further, the Company shall provide the Agent with copies of all such credit agreements and related documentation and all amendments, modifications and supplements thereto which are entered into after the date hereof.

(q) Change of Ownership. The Company shall obtain the Agent's written consent, which consent shall not be unreasonably withheld, delayed or conditioned, within thirty (30) days of

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the effective date of any proposed change of control in the majority ownership of the capital stock of the Company.

(r) Insured Closing Letters. The Company shall cause all Loans financed with the proceeds of an Advance to be closed under an insured closing letter issued by a major nationally recognized title company acceptable to the Agent.

(s) MERS. During any time during which the Company is using the MERS System, the Company shall (a) at all times, maintain its status as a MERS Member, (b) at all times, employ officers who have the authority, pursuant to a corporate resolution from MERS, to execute assignments of mortgage in the name of MERS in the event deregistration from the MERS System is necessary or desirable, (c) at all times remain in compliance in all material respects with all terms and conditions of membership in MERS, including the MERSCORP, Inc. "Rules of Membership" most recently promulgated by MERSCORP, Inc., the "MERS Procedures Manual" most recently promulgated by MERS, and any and all other guidelines or requirements set forth by MERS or MERSCORP, as each of the foregoing may be modified from time to time, including, but in no way limited to compliance with guidelines and procedures set forth with respect to technological capabilities, drafting and recordation of mortgages, registration of mortgages on the MERS System, including registration of the interest of the Agent in such mortgages and membership requirements, (d) promptly, upon the request of the Agent, execute and deliver to the Agent an assignment of mortgage, in blank, with respect to any MERS Mortgage that the Agent determines shall be removed from the MERS System, (e) at all times maintain the Electronic Tracking Agreement in full force and effect, and (f) immediately provide to Agent a copy of any notice received from MERS or MERSCORP pursuant to Section 4(a) of the Electronic Tracking Agreement. The Company shall not de-register or attempt to de-register any mortgage from the MERS System unless the Company has complied with the requirements set forth in the Electronic Tracking Agreement and the requirements hereof and the Security Agreement relating to a release of Collateral.

(t) Hedging Program. The Company shall at all times maintain a Hedging Program which represents a reasonable means for the Company to hedge certain interest rate risks associated with the mortgage banking business, and such Hedging Program shall be acceptable to the Agent in its reasonable discretion.

7.2 Negative Covenants. So long as any portion of the Secured Obligations remains unpaid or this Credit Agreement continues in effect, unless all of the Banks otherwise consent in writing, the Company shall not violate any of the following covenants and agreements:

(a) Limitation on Indebtedness. The Company shall not incur, create, assume, have outstanding, guaranty, or otherwise be or become directly or indirectly liable with respect to any indebtedness, or modify any existing indebtedness, if, as a result thereof, the Company would be in violation of any of the covenants set forth in this Credit Agreement. Further, the Company shall not, without the prior written consent of the Agent and all of the Banks, incur, create, assume, having outstanding, guaranty, or otherwise become directly or indirectly liable with respect to any mortgage warehouse indebtedness, other than the Warehouse Line created hereunder and such indebtedness as shall exist as date hereof and shall be disclosed on **Schedule 6.1** hereof. In the event the Agent and the Banks consent to the incurrence, creation or assumption of any additional mortgage warehouse indebtedness, the Company covenants to execute and deliver an Intercreditor Agreement, fully executed by all of the Company's then current mortgage warehouse lenders and in form acceptable to the Banks and the Agent, within fifteen (15) days of the implementation of such additional mortgage warehouse indebtedness.

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(b) Amendment of Corporate Documents. The Company shall not cause or permit any amendment of its Articles of Incorporation or any material change in its Bylaws in effect as of the date hereof.

(c) Redemption and Distributions. Except as permitted under **Section 7.2(k)** hereof, Company shall not: (i) apply any of its property to the purchase, redemption, or other retirement of any shares of any class of its capital stock; (ii) set apart any sum for the payment of or for any dividends on, or for the purchase, redemption, or other retirement of any shares of any class of its capital stock; or (iii) make any other distribution, by reduction of capital or otherwise, in respect of any shares of any class of its capital stock.

(d) Mergers, Sales, Transfers or Other Disposition of Assets. The Company shall not do any of the following without the prior written consent of the Agent, which consent shall not be unreasonably withheld, delayed or conditioned: (i) dissolve or otherwise dispose of all or any material portion of its assets (other than mortgage loans in the normal course of business and unused or obsolete assets of the Company which are not material to its operation), or acquire all or any material portion of the assets or outstanding capital stock of any other business entity if such acquisition involves a purchase price of greater than or equal to Two Hundred Fifty Thousand Dollars (\$250,000.00); (ii) sell, lease, or otherwise transfer or dispose of any material assets for less than the higher of book value or fair market value (except assets no longer usable in Company's business); (iii) consolidate with or merge into another corporation or other legal entity or permit one or more other such entities to consolidate with or merge into it if such consolidation or merger involves a purchase price greater than or equal to Two Hundred Fifty Thousand Dollars (\$250,000.00); (iv) effect any material adverse change in its capitalization; or (v) sell, lease, transfer, lend, or convey a material portion of any of its material assets to an Affiliate.

(e) VA Guaranties and FHA Insurance. The Company shall not commit or permit to be committed any act which would invalidate the guarantee of the Veterans Administration or insurance by the Federal Housing Administration or cause any impairment to the validity of or priority of the mortgage lien which secures any of the Loans, pledged to the Agent for the ratable benefit of the Banks under the Security Agreement. In the event that any such guarantee or insurance should lapse or otherwise be invalidated, the Company shall, within fifteen (15) days of such lapse or invalidation, cause the Loan affected by such lapse or invalidation to be removed from Collateral, with either (i) substitution of such other property constituting Collateral hereunder of at least equal value, or (ii) payment of the Advance made by the Banks with respect to such Loan.

(f) Maintenance of Qualifications. The Company shall not commit or suffer to be committed any act which would adversely affect its eligibility to participate as an FHA approved mortgagee, as an approved lender under the VA guarantee program, as an approved seller-servicer by GNMA, as an approved seller-servicer of mortgage notes to Fannie Mae and to FHLMC in the FHLMC regions in which it operates.

(g) Liens. The Company shall not create or permit to exist, any mortgage, pledge, title retention, lien, lease purchase, or other encumbrance or security interest, with respect to any assets now owned or hereafter acquired by the Company except: (i) the Security Interests and the liens and security interests created under the Collateral Documents; (ii) materialmen's, mechanics', suppliers', tax, or warehousemen's liens, statutory liens of landlords and other like liens arising in the ordinary course of business which are not yet due or which are being contested in good faith by appropriate proceedings; (iii) liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment compensation, and other types of social security, or to secure the performance of other

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statutory obligations; (iv) encumbrances consisting of zoning regulations, easements, rights of way, survey exceptions, and other similar restrictions on the use of real property, and minor irregularities in titles thereto which do not materially impair their use in the operation of its business; (v) liens and security interests incurred or made in the purchase of property or equipment in the ordinary course of business; and (vi) existing liens and security interests described in Schedule 6.1 to this Credit Agreement which have been deemed acceptable by the Agent and the Banks.

(h) Guaranties. The Company shall not guaranty, endorse, assume, become surety for, indemnify, or otherwise become or be responsible for the obligations of any Person except: (i) endorsements of negotiable instruments for deposit or collection in the ordinary course of business and (ii) obligations incurred in connection with the sale of Loans in the ordinary course of business of the Company.

(i) Use of Funds. The Company shall not use any funds provided by the Banks under this Credit Agreement, or by any Warehouse Advance, Swing Advance or Excess Advance for any purpose other than funding or purchasing Loans. The Company shall not use the proceeds of any Wet Advance, Jumbo Advance, Alt A Advance or HELOC/Second Trust Deed Advance for any purpose other than the purposes encompassed by the definition of those terms in Article 1 of this Credit Agreement. In addition to the foregoing, the Company shall not use any funds provided by the Banks under this Credit Agreement or by any Warehouse Advance for the purpose of making any Loan that would be subject to the provisions of the Home Ownership and Equity Protection Act of 1994 or other federal or state legislation relating to "high cost" mortgage lending.

(j) Loans and Advances. Other than existing loans to shareholders, the Company shall not, other than in the ordinary course of its business, make any loan or advance to any Person (including without limitation Affiliates) if such loan or advance would cause the aggregate amount of all such loans and advances to all such Persons to be in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00), exclusive, however, of the amount of all reasonable salaries, benefits, and occupational expenses that have traditionally been borne by the Company and all loans, advances and distributions made by the Company to LendingTree to pay corporate taxes and/or employee benefits of the Company.

(k) Dividends, Redemption and Distributions. The Company shall not: (i) declare or pay in any fiscal year cash dividends; (ii) declare or pay any dividends payable in its capital stock on any shares of any class of its capital stock; (iii) apply any of its property to the purchase, redemption, or other retirement of any shares of any class of its capital stock; (iv) set apart any sum for the payment of any dividends on, or for the purchase, redemption, or other retirement of, any shares of any class of its capital stock; or (v) make any other distribution, by reduction of capital or otherwise, in respect of any shares of any class its capital stock, if such action would cause an Event of Default or an Unmatured Event of Default hereunder.

(l) Mortgage Loan Early Purchase and Sale/Repurchase Facilities. Except for the respective early purchase lines of credit of the Company currently in effect, the Company shall not, without the prior written consent of the Agent thereto, which consent shall not be unreasonably withheld, delayed or conditioned, enter into any agreement providing facilities for the early purchase or the sale and repurchase of mortgage loans and/or mortgage backed securities. Notwithstanding the foregoing, in the event the Agent consents to the Company entering into agreements for such facilities, at the Agent's request, the Company covenants and agrees to use its best efforts to deliver an Intercreditor Agreement, fully executed by the Company and all of the Company's then current and proposed mortgage warehouse lenders and parties to such early purchase and sale/repurchase facilities, substantially in a form prescribed by the Agent, on or before the date of implementation of such facilities.

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7.3 Reporting Requirements. So long as any portion of the Company's liabilities under the Credit Agreement, including the Notes, remains unpaid or this Credit Agreement remains in effect, unless the Requisite Banks otherwise consent in writing, the Company shall furnish to the Agent and the Banks the following reports:

(a) Annual Reports. As soon as available, and in any event within ninety (90) calendar days after the end of each fiscal year of the Company, the Company shall furnish to the Banks (i) a complete annual audited financial statement with all notes thereto, on a consolidated basis with the Company, prepared in reasonable detail in accordance with generally accepted accounting principles consistently applied, and in detail reasonably satisfactory to the Agent, which shall contain at least a balance sheet, a statement of profit and loss and stockholder's equity, and a statement of cash flows, set forth in each case in comparative form with corresponding figures from the preceding fiscal year, and (ii) to the extent the same is prepared by the Company, the management letter prepared by the firm of independent certified public accountants in connection with the certification of the annual audited financial statements of the Company, in form acceptable to the Bank. Each annual audited financial statement of the Company shall be duly certified by a firm of independent certified public accountants of recognized national standing or otherwise acceptable to the Requisite Banks. The certified report of such firm shall include a statement to the effect that the examination made in preparing and certifying such annual audited financial statement has not disclosed the existence of a condition or event at the end of the fiscal year which constitutes an Event of Default or Unmatured Event of Default hereunder, or a statement specifying the nature and period of existence of any such condition or event disclosed by such examination.

(b) Monthly Reports. As soon as available, and in any event within thirty (30) calendar days after the end of each calendar month, the Company shall furnish to each of the Banks (i) financial statements for the preceding fiscal month, prepared on a basis consistent with prior periods and in accordance with generally accepted accounting principles, such monthly financial statements shall contain at least a balance sheet of the Company as of the end of such month and a statement of profit and loss for such month and for the fiscal year to date, (ii) a duly executed Covenant Compliance Certificate, (with calculations attached), and (iii) production numbers for the month and year-to-date, all in such form and detail as the Agent shall reasonably request. Each monthly financial statement shall be accompanied by a certificate chief financial officer of the Company dated as of such date and certifying that the monthly financial statement so provided is correct and complete as of such date and fairly presents the results of operations for the periods then ended, and that there exists no Event of Default or Unmatured Event of Default hereunder and that all representations and warranties contained

in this Credit Agreement and the Loan Documents are true and correct as if made again effective on the date of such certificate. The financial statements to be delivered to the Agent under this subsection shall be audited statements same have been obtained by the Company.

(c) Mortgage Position Report. As soon as available and in any event within thirty (30) calendar days after the end of each calendar month, or more frequently if requested by the Agent, a mortgage position report which details the Company's market and commitment positions relative to Loans in pipeline and closed Loans in inventory, such mortgage position report to be in form as is reasonably acceptable to the Agent.

(d) Hedging Reports. At the end of each calendar month, the Company shall provide to the Agent, a secondary marketing report for that month, in form reasonably satisfactory to the Agent (each such report, a "Positions Report"), which shall include a schedule setting forth (A) the components of the Company's Hedging Program as of the end of such month, and (B) the Commitments as of

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the end of such month.

(e) Agency Audits. Promptly upon delivery to the Company, the Company shall furnish to the Agent a copy of the results of any field audit of the Company's business and/or records performed by GNMA, Fannie Mae, FHLMC or the Department of Housing and Urban Development, together with a copy of all subsequent correspondence relating to such audit between the Company and such agency.

(f) Updated List of Approved Investors. The Company shall deliver or cause to be delivered to the Agent an updated list of all Approved Investors, immediately upon any change in the same, which list must include the (a) Approved Investor name, (b) contact person, (c) address, (d) phone number, and (e) and upon request by the Agent, the financial statements for such investor.

(g) Other Reports and Information. The Company shall deliver or cause to be delivered to the Agent and/or the Banks such information (not otherwise required to be furnished under this Credit Agreement or the other Loan Documents) respecting its business, affairs, assets, and liabilities, and such statements, lists of property and accounts, reports, opinions, certifications, and documents as the Agent may from time to time reasonably request.

## ARTICLE 8

### EVENTS OF DEFAULT

**8.1** Events of Default. The occurrence of one or more of the following events shall constitute an "Event of Default".

(a) Default under the Loan Documents. The occurrence of an Event of Default under and as defined in this Credit Agreement or any of the other Loan Documents.

(b) Payments. The Company shall fail to make any payment of principal, interest, fees, or other amounts with respect to the obligations or liabilities of the Company to a Bank, whether under this Credit Agreement or any of the other Loan Documents, including without limitation the obligations set forth in the Notes, or otherwise, on or before the date such payment is due pursuant to and such failure shall continue for a period of ten (10) calendar days.

(c) Covenant Defaults. The Company shall fail to perform or observe any covenant, agreement, or provision contained in this Credit Agreement or the other Loan Documents by it to be performed or observed, including without limitation the covenants set forth in Article 7 of this Credit Agreement and such failure with respect thereto shall continue for a period of forty five (45) calendar days, except for the covenants contained in Article 5 and Sections 7.1(a), (b), (c), (e), (f), (g), (i), (k), (o) and (s) and Section 7.2 of this Credit Agreement, for which there shall be no grace period except as specified in Section 8.1(b) hereof, or the occurrence of any other event of default (other than those described above under any of the other Loan Documents).

(d) Representations and Warranties. Any representation or warranty made or deemed made by the Company herein or in any other Loan Document, including without limitation the representations and warranties set forth in Article 6 of this Credit Agreement, or in any certificate, schedule, statement, report, notice or writing furnished by or on behalf of the Company to the Agent or any Bank,

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whether furnished prior to, contemporaneously with, or subsequent to the execution of this Credit Agreement, is untrue or is breached in any material respect.

(e) Default on Indebtedness. Any creditor or any representative of any creditor of the Company declares, or is or becomes entitled to declare, any indebtedness of the Company which exceeds Two Hundred Fifty Thousand Dollars (\$250,000.00), to be due and payable prior to its expressed maturity by reason of any material default by the Company in the performance or observance of any obligation or condition, or any such indebtedness becomes due by its terms and is not promptly paid or extended, other than those not yet delinquent and those which are being contested in good faith by the Company.

(f) Insolvency. The Company becomes insolvent or generally does not pay, or admits in writing its inability to pay its debts as they become due, or applies for, consents to, or acquiesces in the appointment of a trustee or receiver of the Company or its property; or in the absence of such application, consent, or acquiescence, a trustee or receiver is appointed for the Company or for a substantial part of its property and is not discharged within forty-five (45) calendar days; or any bankruptcy, reorganization, debt arrangement, or other proceeding under any bankruptcy or insolvency law is instituted by or against the Company and, if instituted against the Company, is consented to or acquiesced in by the Company, or remains for thirty (30) calendar days undismissed or uncontested.

(g) Dissolution or Liquidation. Any dissolution or liquidation proceeding is instituted by or against the Company and, if instituted against the Company, is consented to or acquiesced in by the Company, or remains for thirty (30) calendar days undismissed or uncontested.

(h) Termination or Suspension of Business. The transaction of the usual business of the Company is terminated or suspended.

(i) Judgments. The entry of an uninsured money judgment against the Company in excess of Fifty Thousand Dollars (\$50,000.00), unless such judgment shall be satisfied, appealed, discharged, or stayed within thirty (30) calendar days after the entry thereof, and if stayed, within ten (10) calendar days after the expiration or lapse of any such stay.

(j) Material Adverse Change. The occurrence of any material adverse change in the condition of the Company, financial or otherwise.

(k) Change of Ownership. The Company implements any change in majority ownership of the Company without notifying Agent in advance and obtaining Agent's prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned.

8.2 Remedies Not Exclusive. The rights and remedies provided in this Credit Agreement, the Notes, the Collateral Documents and all other Loan Documents are cumulative, may be exercised in such sequence or combination as the Requisite Banks (or all of the Banks if the context so requires pursuant to **Section 9.20** hereof) may elect, and are not exclusive of any rights or remedies otherwise provided by law.

8.3 Remedies Upon Event of Default. If an Event of Default shall have occurred, the Agent may at its sole option, subject to the provisions of **Section 9.20** hereof, exercise any one of more of the following rights and remedies, and any other remedies provided in this Credit Agreement, any of the other Loan Documents, or at law or equity or otherwise, and shall, at the direction of the Requisite Banks, exercise

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any one or more of such rights and remedies (provided, however, that if any Event of Default specified in **Sections 8.1(b), 8.1(f) or 8.1(g)** hereof shall occur, the principal of, and all interest on, the Notes and other liabilities hereunder shall thereupon become due and payable concurrently therewith and the Banks' obligations to make Advances hereunder shall immediately terminate, without any further action by the Agent or any Bank and without presentment, demand, protest, notice of default, notice of acceleration or of intention to accelerate or other notice of any kind, all of which the Company hereby expressly waives):

(a) Acceleration. Declare the unpaid balance of the Notes, including principal, interest, and any fees or other obligations, or any part thereof, to be immediately due and payable, without demand, presentment, or further notice of any kind, the same being hereby expressly waived by the Company, whereupon it shall be due and payable.

(b) Advances; Termination. Refuse to make any further Advances or readvances under any of the Notes, and terminate this Credit Agreement and the other Loan Documents.

(c) Judgment. Reduce any claim to judgment.

(d) Offset. Exercise the rights of offset and/or banker's lien against the interests of the Company in and to every property of the Company (other than escrow deposits or custodial trust accounts managed by the Company) which is in the possession of a Bank to the extent of the full amount of the Company's obligations to such Bank.

(e) Foreclosure/Repurchase. Exercise all those rights and remedies allowed to secured parties by all applicable laws, including without limitation the Kentucky Uniform Commercial Code and the Uniform Commercial Code as enacted in any other jurisdiction in which the Collateral or any portion thereof may be located.

(f) Possession. Enter upon the premises of the Company and take immediate possession of the Collateral, with or without legal process, either personally or by means of a receiver appointed by a court of competent jurisdiction.

(g) Collection of Accounts. Collect and receive all accounts, rents, income, revenue, earnings, issues, and profits arising from the Collateral or any part thereof.

(h) Exercise of Rights. Exercise any and all other rights afforded by any applicable laws or by this Credit Agreement and the other Loan Documents at law, in equity, or otherwise, including, but not limited to, the rights to bring suits or other proceedings before any tribunal of competent jurisdiction, either for specific performance of any covenant or condition contained in the Loan Documents or in aid of the exercise of any right granted to the Agent or a Bank in this Credit Agreement or any other Loan Document.

8.4 Performance by the Banks. Should the Company fail to observe or perform any covenant, duty, or promise by it to be observed or performed under the terms of this Credit Agreement or the other Loan Documents, the Agent or the Banks may, in their discretion and without any obligation to do so, perform or attempt to perform, such covenant, duty, or promise on behalf of the Company, and, in the event the Agent or a Bank should do so, the Company shall immediately upon demand reimburse the Agent or such Bank for all its expenses, disbursements, fees, and costs incurred in connection therewith, with interest thereon at the rate specified in the Notes. The Agent and the Banks do not assume and shall never have,

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except by its express written consent, any liability or responsibility for the performance of any covenant, duty, or promise of the Company hereunder.

8.5 Attorneys; Accountants; Other Third Parties. In the exercise of their rights under this Credit Agreement, the Notes, or the other Loan Documents, the Agent and the Banks may retain, consult with, and otherwise utilize the services of counsel, accountants and other third parties. Whenever attorneys, accountants or other third parties are used by the Agent or a Bank in the exercise of any of its remedies under this Credit Agreement, the Notes, or the other Loan Documents, or otherwise, including collection or enforcement of this Credit Agreement, the Notes, or the other Loan Documents, or to enforce, defend, declare, or adjudicate any of the Agent's or a Bank's rights under any of such instruments and documents or in any of the Collateral,

whether by suit, negotiation, or otherwise, such reasonable attorneys', accountants' and other third parties' fees as are incurred by the Agent or a Bank in connection therewith shall be payable by the Company to the fullest extent allowed by law provided that an Event of Default has occurred hereunder or it is otherwise determined that the Company is liable to the Agent or a Bank hereunder or under the other Loan Documents.

## ARTICLE 9

### MISCELLANEOUS

9.1 Expenses. The Company agrees to reimburse the Agent, upon demand, for all out-of-pocket expenses (including reasonable attorneys' fees and legal expenses), incurred in connection with the preparation, review, and amendment of this Credit Agreement, and, if an Event of Default has occurred hereunder or if it is otherwise determined that the Company is liable to the Agent or a Bank, the Company agrees to promptly reimburse the Agent or any Bank, upon demand, for all reasonable out-of-pocket expenses (including reasonable attorneys' fees and legal expenses), incurred in enforcing or attempting to enforce the obligations of the Company hereunder and under the Notes and the other Loan Documents, which obligations shall survive any termination of this Credit Agreement.

9.2 Non-Liability of Banks. The relationship between the Company and the Banks is, and shall at all times remain, solely that of debtor and creditor, and the Banks neither undertake nor assume any responsibility or duty to review, inspect, supervise, pass judgment upon, or inform the Company of any matter in connection with any aspect or phase of the Company's businesses, operations, or condition, financial or otherwise. The Company shall rely entirely upon its own judgment with respect to all such matters, and any review of, inspection of, supervision of, exercise of judgment on, or supply of information to, the Company by the Agent or a Bank in connection with any such matter is for the protection and benefit of the Banks, and neither the Company nor any third party is entitled to rely thereon.

9.3 Waivers, etc. No failure to exercise and no delay in exercising, on the part of the Banks or the Agent or any holder of the Notes, of any power or right hereunder or under the Notes or the other Loan Documents and no course of dealing between the Company and the Agent or a Bank or the holder of the Notes, shall operate as a waiver thereof; nor shall any single or partial exercise of any power or right preclude any other or further exercise thereof or the exercise of any other power or right.

9.4 Amendments. Except as set forth in **Section 9.20** hereof, no amendment, modification, or supplement to this Credit Agreement, the Notes, or the other Loan Documents, or to any other document or instrument executed or issued by any of the parties hereto in connection with the transactions contemplated herein, shall be binding unless executed in writing by all parties hereto; and this provision of this Credit Agreement shall not be subject to waiver by any party and shall be strictly enforced.

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9.5 Taxes. The Company agrees to pay, and save the Agent and the Banks harmless from all liability for, any stamp or other taxes (otherwise than by a change in taxation of a Bank's overall net income) which may be payable with respect to the execution or delivery of this Credit Agreement, the Notes, and the other Loan Documents, which obligation of the Company shall survive the termination of this Credit Agreement.

9.6 Governing Law. This Credit Agreement shall be construed in accordance with and governed by the law of the Commonwealth of Kentucky, without giving effect to the conflict of laws principles thereof. Service of any writ, process, summons, or complaint upon the Company may be made by mail upon it at the address stated in this Credit Agreement, upon any registered agent for service of process, or by any other method provided by law. Service by any such method shall be conclusively deemed to be legally sufficient in all respects, and the Company hereby irrevocably waives any objection to the service or sufficiency of service of any writ, process, summons, or complaint which is served in accordance with the foregoing.

9.7 Section Titles; Table of Contents. The section titles and the table of contents contained in this Credit Agreement are inserted for convenience only and shall not govern the interpretation of any of the provisions of this Credit Agreement.

9.8 Reliance by the Banks. All covenants, agreements, representations, and warranties made herein by the Company shall, notwithstanding any investigation by the Agent and the Banks, be deemed to be material to the Agent or the Banks and to have been relied upon by the Agent or the Banks and shall survive the execution and delivery of this Credit Agreement.

9.9 Severability. The provisions of this Credit Agreement are severable. If any provision hereof shall be held invalid or unenforceable in whole or in part by a court of competent jurisdiction, the remainder of this Credit Agreement shall not thereby fail or be rendered void or unenforceable, but shall continue in full force and effect, with only the invalid or unenforceable provision rendered a nullity and severed from this Credit Agreement.

9.10 Survival of Representations and Warranties. All representations and warranties made by the Company in this Credit Agreement shall survive the execution hereof, the delivery of the Notes and the making of all Advances, and the Banks and the Agent shall be entitled to rely on such representations and warranties at all times.

9.11 Termination. This Credit Agreement shall terminate on the Termination Date, at which time no further Advances shall be made hereunder. Upon such termination, the Notes shall be immediately due and payable.

9.12 Counterparts; Effectiveness. This Credit Agreement and any amendments, waivers, consents, or supplements may be executed in any number of counterparts, and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument. This Credit Agreement shall become effective upon the later of: (a) the receipt by the Agent of a counterpart hereof executed by the Company, the Banks and the Agent; and (b) the delivery to the Company of a counterpart hereof executed by the Company, the Banks and the Agent.

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9.13 Entire Agreement. This Credit Agreement, the Notes, the other Loan Documents and all other documents related to any of the foregoing or otherwise contemplated hereunder embody the final and entire agreement between the parties hereto relating to the subject matter hereof and

thereof and supersede any and all prior commitments, arrangements, representations, understandings and agreements and any and all oral agreements between the parties relating to the subject matter hereof. There are no unwritten, oral agreements between the parties.

9.14 Exhibits and Schedules. The Exhibits and Schedules to this Credit Agreement are a part hereof, and are hereby incorporated by reference as if fully set out where first mentioned herein.

9.15 Indemnity. The Company shall indemnify and hold harmless the Banks, the Agent, their respective successors, assigns, agents and employees, from and against any and all claims, actions, suits, proceedings, costs, expenses, damages, fines, penalties and liabilities, including, without limitation, reasonable attorneys' fees and costs, arising out of, connected with or resulting from (a) this Credit Agreement or any of the other Loan Documents, (b) the operation of the business of the Company, (c) the Agent's and/or any Bank's preservation or attempted preservation of the Collateral, or (d) any failure of the Liens granted to the Agent in its capacity as agent for the Banks in the Collateral to be or to remain perfected or to have the priority as contemplated herein and in the Collateral Documents; provided, the Company shall have no obligation to indemnify the Banks for any loss caused in whole or in part by the Banks' or the Agent's gross negligence or willful misconduct. At each Bank's request, the Company shall, at its own cost and expense, defend or cause to be defended any and all such actions or suits that may be brought against such Bank as a result of this Credit Agreement or any of the other Loan Documents, unless the claim arose due to gross negligence or willful misconduct on the part of such Bank and, in any event, shall satisfy, pay and discharge any and all judgments, awards, penalties, costs and fines that may be recovered against the applicable Bank in any such action, plus all reasonable attorneys' fees and costs related thereto to the extent permitted by applicable law; provided, however, that each Bank shall give the Company, to the extent such Bank seeks indemnification from the Company under this **Section 9.15**, written notice of any such claim, demand or suit as soon as practicable after the applicable Bank has received written notice thereof, and the applicable Bank shall not settle any such claim, demand or suit, if such Bank seeks indemnification therefor from the Company, without first giving notice to Company of such Bank's desire to settle and obtaining the consent of Company to the same, which consent Company hereby agrees not to unreasonably withhold or delay.

9.16 Role of the Banks. Notwithstanding any of the terms or conditions hereof or of the other Loan Documents to the contrary, the Banks shall not have, and by their execution and acceptance of this Credit Agreement hereby expressly disclaim, any obligation or responsibility for the management, conductor operation of the business and affairs of the Company. Any term or condition hereof, or of any of the other Loan Documents, permitting the Banks to take or refrain from taking any action with respect to the Company or the Collateral shall be deemed solely to permit the Banks to audit and review the management, operation and conduct of the business and affairs of the Company and to maintain and preserve the security given by the Company to the Agent, in its capacity as agent for the Banks, for the Secured Obligations, and may not be relied upon by any other Person. Further, the Banks shall not have, have not assumed, and by their execution and acceptance of this Credit Agreement hereby expressly disclaim, any liability or responsibility for the payment or performance of any indebtedness or obligation of the Company, and no term or condition hereof, or of any of the other Loan Documents, shall be construed otherwise.

9.17 Notices. All notices required or permitted to be given hereunder shall be given in writing and shall be personally delivered or sent by telecopier, by express courier service or by registered or

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certified United States mail, return receipt requested, postage prepaid, addressed as follows (or to such other address as to which any party hereto shall have given the other written notice):

If to the Company: At the telecopy number or address specified below the signature of the Company

If to the Agent or Banks: At the telecopy number or address specified below the signature of the applicable Bank

cc: Jeffrey A. Hamilton, Esq.  
Reed Weitkamp Schell & Vice PLLC  
500 West Jefferson Street  
Suite 2400  
Louisville, KY 40202  
Ph: (502) 589-1000  
Fax: (502) 562-2200

All notices hereunder shall be deemed given upon the earliest of (a) actual delivery in person or by telecopier, (b) one (1) Business Day after delivery to an express courier service for overnight delivery for next Business Day, and in event express courier service is not available, (y) five (5) Business Days after having been deposited in the United States mails, certified delivery, return receipt requested or (z) the Business Day on which a facsimile was sent and confirmed, in accordance with the foregoing. Any notice of an Event of Default to the Company shall be sent by personal delivery, express courier service or by registered or certified mail in accordance with this **Section 9.17**.

9.18 Ratable Sharing. Except as otherwise specifically set forth in this Credit Agreement, including without limitation, in **Article 2** hereof and this **Section 9.18**, each Bank agrees with each other Bank that (i) with respect to all amounts received by them which are applicable to the payment of principal of or interest on the Advances or fees relating thereto including, without limitation, all amounts received by such Bank pursuant to the exercise of the right of set-off pursuant to this Credit Agreement, equitable adjustment will be made so that all such amounts will be shared among the Banks proportionately to their respective Pro Rata Shares whether received by voluntary payment, by the exercise of the right of set-off or banker's lien, by counterclaim or cross action or by the enforcement of any or all of the Secured Obligations owed by the Company to the Banks hereunder and under the Notes, and (ii) if any of them shall exercise any right of counterclaim, set-off, banker's lien or similar right with respect to amounts owed by the Company hereunder, that Bank shall apportion the amount recovered as a result of the exercise of such right pro rata in accordance with (a) all amounts outstanding at such time owed by the Company to it hereunder, and (b) all amounts otherwise owed by the Company to it, and (iii) if any of them shall thereby through the exercise of any right of counterclaim, set-off, banker's lien or otherwise, or as adequate protection of a deposit treated as cash collateral under the Bankruptcy Code, receive payment or reduction of a proportion of the aggregate amount of principal and interest due with respect to the Advances made by that Bank or any other amount payable hereunder (collectively, the "Aggregate Amount Due" to such Bank), which is greater than the proportion received by any other

Bank in respect of the Aggregate Amount Due to such other Bank, then the Bank receiving such proportionately greater payment shall (y) notify each other Bank and the Agent of such receipt and (z) purchase participations (which it shall be deemed to have done simultaneously upon the receipt of such payment) in the Aggregate Amount Due to the other Banks so that all recoveries of Aggregate Amount Due shall be shared by the Banks in proportion to their respective Pro Rata Shares; provided that if all of part

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of such proportionately greater payment received by such purchasing Bank is thereafter recovered from such Bank, those purchases shall be rescinded and the purchase prices paid for such participations shall be returned to that Bank to the extent of such recovery, but without interest. The Company expressly consents to the foregoing arrangements and agrees that any participant in respect of any Advance may exercise any and all rights of banker's lien, set-off or counterclaim with respect to any and all rights of banker's lien, set-off or counterclaim with respect to any and all monies owing by the Company to that participant as if that participant were a Bank in the amount of such participation held by that participant. Notwithstanding anything contained herein to the contrary, immediately upon the occurrence of an Event of Default, acceleration of the Secured Obligations and/or termination, the Banks hereby absolutely and unconditionally agree to purchase or sell, as applicable, such participation in the Advances outstanding as shall be required to assure that each Bank holds its Pro Rata Share of all such Advances.

9.19 Assignment. This Credit Agreement may not be assigned by the Company without the prior written consent of the Banks. All rights of the Banks hereunder shall inure to the benefit of their respective successors and assigns, and all obligations, covenants and agreements of the Company shall bind its successors and assigns, if any.

9.20 Consent of Banks. Any amendment or modification of this Credit Agreement or any other Loan Document, or waiver of any term or provision hereof or thereof, shall require the affirmative written consent of the Agent and the Requisite Banks; provided, notwithstanding anything herein to the contrary, the following shall require the affirmative written consent of the Agent and all of the Banks: (i) except as permitted under the terms of the Security Agreement, the release of any part of the Collateral from the liens respectively created by the Loan Documents, (ii) the termination, cancellation or release of any Loan Documents, (iii) the decrease in the interest rate(s) borne by the Advances, other than decreases in the interest rate(s) borne by the Advances by virtue of any decreases or changes in the LIBOR as expressly contemplated herein, (iv) any reduction in the amount of the installments of principal due under this Credit Agreement or the Notes or in the aggregate principal amount of principal due thereunder, (v) any extension of the Termination Date or the due dates of any installments of principal of and/or accrued interest on the Notes, (vi) any change in the definition of the term Requisite Banks, (vii) any change in the amount or the calculation of the Commitment Fee, (viii) any change in the computation of (including any change in the definition of any term used in) the Warehouse Borrowing Base, or (ix) any amendment to **Section 2.8** hereof or this **Section 9.20** or any other section of this Credit Agreement that expressly requires the consent of all of the Banks. Notwithstanding anything to the contrary in this **Section 9.20** or elsewhere in this Credit Agreement, (y) with the approval of the Requisite Banks, the Agent may temporarily waive or suspend one or more of this Credit Agreement's eligibility requirements or conditions for a particular grouping of Loans to qualify as Eligible Collateral where their failure to so qualify is beyond the Company's reasonable control and if the Agent and the Requisite Banks believe at the time of such temporary waiver or suspension that the factors which apparently caused such disqualification will be eliminated in a reasonably shorttime, and (z) in addition to the provisions of the foregoing subclause (y) Agent may, in its sole discretion, warehouse or continue to warehouse Loans ("Discretionary Loans") which would otherwise fail to qualify as Eligible Collateral or waive or temporarily suspend or delay any obligation of the Company hereunder in connection with such Discretionary Loans, including, without limitation, suspension of any mandatory prepayment due in connection with such Discretionary Loans, so long as the aggregate Advances outstanding at any one time against such Discretionary Loans shall not exceed Five Million Dollars (\$5,000,000.00). Each Loan which the Agent warehouses or continues to warehouse as a particular type of Loan pursuant to subclause (y) or (z) above, shall, for the entire time such Loan is warehoused pursuant to such subclause, be treated as such particular type of Loan for all purposes under this Credit Agreement and each of the other Loan Documents.

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## ARTICLE 10

### THE AGENT

10.1 Appointment. Each Bank hereby irrevocably designates, appoints and authorizes National City to act as Agent for such Bank under this Credit Agreement, to act as collateral agent for such Bank under all Loan Documents and all Uniform Commercial Code Financing Statements filed pursuant thereto and to execute and deliver or accept on behalf of each of the Banks the other Loan Documents. Each Bank hereby irrevocably appoints, designates and authorizes the Agent to act as the Agent under and in accordance with the provisions of the Security Agreement. Each Bank hereby irrevocably authorizes, and each holder of any Note by the acceptance of such Note shall be deemed irrevocably to authorize, the Agent to take such action on behalf of such Bank and such holder under the provisions of this Credit Agreement and the other Loan Documents and any other instruments and agreements referred to herein, and to exercise such powers and to perform such duties hereunder as are specifically delegated to or required of the Agent by the terms hereof, together with such powers as are reasonably incidental thereto. National City agrees to act as the Agent on behalf of the Banks to the extent provided in this Credit Agreement, and National City expressly acknowledges and agrees that it is holding the other Loan Documents for the benefit of the Banks to secure the payment and performance of the Notes and the other obligations of the Company under the Loan Documents.

10.2 Delegation of Duties. The Agent may perform any of its duties hereunder by or through agents or employees and, subject to **Sections 10.5, 10.6 and 10.7** hereof, shall be entitled to engage and pay for the advice or services of any attorneys, accountants or other experts concerning all matters pertaining to its duties hereunder and to rely upon any advice so obtained.

10.3 Nature of Duties; Independent Credit Investigation. The Agent shall have no duties or responsibilities except those expressly set forth in this Credit Agreement and the other Loan Documents and no implied covenants, functions, responsibilities, duties, obligations, or liabilities shall be read into this Credit Agreement or shall otherwise exist. National City agrees that it shall administer its responsibilities and duties as Agent hereunder and under the other Loan Documents with at least the same degree of care that it customarily employs in the administration of similar credit facilities for its own account. The duties of the Agent shall be mechanical and administrative in nature and shall include the duty to provide to each Bank an executed original of such Bank's Note and an executed original of this Credit Agreement and a copy of the other Loan Documents; the Agent shall not have by reason of this Credit Agreement a fiduciary or trust relationship in respect of any Bank; and nothing in this Credit Agreement, expressed or implied, is intended to or shall be so construed as to impose upon the Agent any obligations in respect of this Credit Agreement except as expressly set forth herein. The Agent shall provide the Banks copies of all notices and documents received by it in its capacity as Agent hereunder or under any of the other Loan Documents except as otherwise

specifically provided herein. Each Bank expressly acknowledges (i) that the Agent has not made any representations or warranties to it and that no act by the Agent hereafter taken, including any review of the affairs of the Company shall be deemed to constitute any representation or warranty by the Agent to any Bank; (ii) that it has made and will continue to make, without reliance upon the Agent, its own independent investigation of the financial condition and affairs and its own appraisal of the creditworthiness of the Company in connection with this Credit Agreement and the making and continuance of the Warehouse Advances hereunder; and (iii) except as expressly provided herein, that the Agent shall have no duty or responsibility, either initially or on a continuing basis, to provide any Bank with any credit or other information with respect thereto, whether coming into its possession before the making of any Advance or at any time or times thereafter.

10.4 Actions in Discretion of the Agent: Instructions from the Banks. The Agent agrees, upon the written request of the Requisite Banks, to take or refrain from taking any action of the type specified as being within the Agent's rights, powers or discretion herein, provided that the Agent shall not be required to take any action which exposes the Agent to legal liability or which is contrary to this Credit Agreement or any other Loan Documents or applicable law. In the absence of a request by the Requisite Banks, the Agent shall have authority, in its sole discretion, to take or not to take any such action, unless this Credit Agreement specifically requires the consent of the Requisite Banks or all of the Banks. Any action taken or failure to act pursuant to such instructions or discretion shall be binding on the Banks, subject to **Section 10.6** hereof. Subject to the provisions of **Section 10.6** hereof, no Bank shall have any right of action whatsoever against the Agent as a result of the Agent acting or refraining from acting hereunder in accordance with the instructions of the Requisite Banks or all of the Banks, as applicable, or in the absence of such instructions, in the absolute discretion of the Agent.

10.5 Reimbursement and Indemnification of the Agent by the Company. The Company unconditionally agrees to pay or reimburse the Agent and save the Agent harmless against (i) liability for the payment of all reasonable and necessary out-of-pocket costs, expenses and disbursements, including fees and expenses of counsel and consultants, incurred by the Agent (a) in connection with the development, negotiation, preparation, printing, execution, interpretation and performance of this Credit Agreement and the other Loan Documents, subject to the provisions of **Sections 9.1** and **10.7** hereof, (b) relating to any Company requested amendments, waivers or consents pursuant to the provisions hereof, (c) in connection with the enforcement of this Credit Agreement or any other Loan Document or collection of amounts due hereunder or thereunder or the proof and allowability of any claim arising under this Credit Agreement or any other Loan Document, whether in bankruptcy or receivership proceedings or otherwise, and (d) in any workout or restructuring or in connection with the protection, preservation, exercise or enforcement of any of the terms hereof or of any rights hereunder or under any other Loan Document or in connection with any foreclosure/repurchase, collection or bankruptcy proceedings, and (ii) all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which be imposed on, incurred by or asserted against the Agent, in its capacity as such, in any way relating to or arising out of this Credit Agreement or any other Loan Document or any action taken or omitted by the Agent hereunder or thereunder; provided that the Company shall not be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements (a) if the same results from the Agent's or the Banks' gross negligence or willful misconduct, or (b) if the Company was not given notice of the subject claim and the opportunity to participate in the defense thereof, at its expense, or (c) if the same results from a compromise or settlement agreement entered into without the consent of the Company which consent shall not be unreasonably withheld.

10.6 Exculpatory Provisions. Neither the Agent nor any of its directors, officers, employees, agents or affiliates shall (i) be liable to any Bank for any action taken or omitted to be taken by it or them hereunder, or in connection herewith including pursuant to any other Loan Documents, including without limitation, the provision of any notice or copies of documents to the Banks, unless caused by its or their own gross negligence or willful misconduct, (ii) be responsible in any manner to any of the Banks for the effectiveness, enforceability, genuineness, validity or the due execution of this Credit Agreement or any other Loan Document or for any recital, representation, warranty, document, certificate, report or statement herein or made or furnished under or in connection with this Credit Agreement or any other Loan Document, or (iii) be under any obligation to any of the Banks to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions hereof or thereof on the part of the Company, or the financial condition of the Company, or the existence or possible existence of any Event of Default or default under the Loan Documents. Neither the Agent nor any Bank nor any of their respective directors, officers, employees, agents, attorneys or affiliates shall be liable to the Company or any other Person for consequential

damages resulting from any breach of contract, tort or other wrong in connection with the negotiation, documentation or administration of the Loan Documents or the collection of the Advances, except for those caused by or resulting from the gross negligence or willful misconduct thereof.

10.7 Reimbursement and Indemnification of the Agent by the Banks. Each Bank agrees to reimburse and indemnify the Agent (to the extent not reimbursed by the Company and without limiting the obligation of the Company to do so) in proportion to its Pro Rata Share from and against all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Agent, in its capacity as such, in any way relating to or arising out of this Credit Agreement or any other Loan Document or any action taken or omitted by the Agent hereunder or thereunder, provided that no such reimbursement shall be required with respect to expenses incurred by the Agent during the time period through the date hereof and no Bank shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements if the same relates to or arises out of the Agent's gross negligence or willful misconduct.

10.8 Reliance by the Agent. The Agent shall be entitled to rely upon any writing, telegram, telex or teletype message, facsimile, resolution, notice, consent, certificate, letter, cablegram, statement, order or other document or conversation by telephone or otherwise believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon the advice and opinions of counsel and other professional advisers selected by the Agent. The Agent shall be fully justified in failing or refusing to take any action hereunder unless it shall first be indemnified to its satisfaction by the Banks against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action.

10.9 Notice of Default. The Agent shall not be deemed to have knowledge or notice of the occurrence of any default under the Loan Documents or Event of Default unless the Agent has received written notice from a Bank or the Company referring to this Credit Agreement, specifically describing such default or Event of Default and stating that such notice is a "notice of default." In the event that the Agent receives such a notice of an occurrence of an Event of Default, the Agent shall give prompt notice thereof to the Banks. If an Event of Default shall occur, the Agent shall take such actions as shall be reasonably directed by the Requisite Banks or all of the Banks, as applicable. Unless and until the Agent shall have received such

instructions, the Agent may (but shall not be obligated to) take such action or refrain from taking such action, as it shall deem advisable in the best interests of the Banks.

10.10 The Banks in Their Individual Capacities. With respect to its Warehouse Line Commitment and the Warehouse Advances made by it, the entity which is the Agent shall have the same rights and powers hereunder as any other Bank and may exercise the same as though it were not the Agent, and the term “Banks” shall, unless the context otherwise indicates, include the entity which is the Agent in its individual capacity. National City and its affiliates and each of the Banks and their respective affiliates may, without liability to account, except as prohibited herein, make loans to, accept deposits from, discount drafts for, act as trustee under indentures of, and generally engage in any kind of banking or trust business with, the Company and its Affiliates, in the case of the entity which is the Agent, as though it were not acting as Agent hereunder and in the case of each Bank, as though such Bank were not a Bank hereunder.

10.11 Holder of Notes. The Agent may deem and treat any payee of any Note as the owner thereof for all purposes hereof unless and until written notice of the assignment or transfer thereof shall have been filed with the Agent. Any request, authority or consent of any Person who at the time of making such request or giving such authority or consent is the holder of any Note shall be conclusive and binding on

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any subsequent holder, transferee or assignee of such Note or of any Note or Notes issued in exchange therefor.

10.12 Successor Agent. The Agent (i) may resign as Agent with the consent of the Company, such consent not to be unreasonably withheld, or (ii) shall resign if such resignation is requested by the Requisite Banks, in either case (i) or (ii) by giving not less than ninety (90) calendar days prior written notice to the Company and the Banks; provided, however, in no event shall the Agent be required to remain in such capacity beyond the Termination Date. If the Agent shall resign under this Credit Agreement, then either (a) the Requisite Banks shall appoint from among the Banks a successor agent for the Banks, subject to the consent of such successor agent by the Company, such consent not to be unreasonably withheld, or (b) if a successor agent shall not be so appointed and approved within the ninety (90) calendar day period following the Agent’s notice to the Banks of its resignation, then the Agent shall appoint, with the consent of the Company, such consent not to be unreasonably withheld, a successor agent who shall serve as Agent until such time as the Requisite Banks appoint, and the Company consents, which consent shall not be unreasonably withheld, to the appointment of, a successor agent. Upon its appointment pursuant to either clause (a) or (b) above, such successor agent shall succeed to the rights, powers and duties of the Agent and the term “Agent” shall mean such successor agent, effective upon its appointment, and the former Agent’s rights, powers and duties as Agent shall be terminated without any other or further act or deed on the part of such former Agent or any of the parties to this Credit Agreement. After the resignation of any Agent hereunder, the provisions of this **Article 10** shall not by reason of such resignation be deemed to be released from liability for any actions taken or not taken by it while it was an Agent under this Credit Agreement.

10.13 Calculations. In the absence of gross negligence or willful misconduct, the Agent shall not be liable for any error in computing the amount payable to any Bank whether in respect of the Warehouse Advances or the fees or other amounts due to the Banks under this Credit Agreement. In the event an error in computing any amount payable to any Bank is made, the Agent, the Company and each affected Bank shall, forthwith upon discovery of such error, make such adjustments as shall be required to correct such error. In no event, however, shall the Company be required to pay more than the amount of error itself.

10.14 Beneficiaries. Except as set forth in **Sections 10.5 and 10.12** hereof, the provisions of this **Article 10** are solely for the benefit of the Agent and the Banks, and the Company shall not have any rights to rely on or enforce any of the provisions hereof. In performing its functions and duties under this Credit Agreement, the Agent shall act solely as agent of the Banks and does not assume and shall not be deemed to have assumed any obligation toward or relationship of agency or trust with or for the Company or any other Person.

## ARTICLE 11

### ADDITIONAL BANKS; ASSIGNMENTS AND PARTICIPATIONS

11.1 Additional Banks. The Agent with the consent of the Company may at any time propose that one or more commercial banks each of which is organized under the laws United States or any state thereof or organized under the laws of any other country, or a political subdivision thereof (provided that such foreign bank is acting through a branch or agency located in the United States, or is organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development or a political subdivision of such country), is regularly engaged in the business of mortgage warehouse lending, and has capital and surplus of at least Three Hundred Million Dollars (\$300,000,000.00) (each, an “Applicant Financial Institution”) become an additional Bank hereunder. At such time, the Company or the Agent, as

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applicable, shall notify the other parties hereto of the identity of such Applicant Financial Institution and such Applicant Financial Institution’s proposed Warehouse Line Commitment (which must not be less than Five Million Dollars (\$5,000,000.00) and which must be a multiple of Five Million Dollars (\$5,000,000.00)); provided, however, notwithstanding anything contained herein to the contrary, without the prior written consent of the Agent and the Requisite Banks, the Total Warehouse Line Commitment shall never exceed Fifty Million Dollars (\$50,000,000.00). The Agent and the Company shall mutually agree on the effective date on which such Applicant Financial Institution shall become a party hereto and a Bank hereunder (the “Adjustment Date”). On such Adjustment Date: (i) the Agent shall deliver to the Company and each of the Banks a Commitment Schedule and Allocation Notice to be effective from such Adjustment Date; (ii) such Applicant Financial Institution shall pay to the Agent, no later than 12:00 noon Prevailing Time, an amount equal to such Applicant Financial Institution’s Pro Rata Share of the Aggregate Outstanding Warehouse Balance and the Aggregate Outstanding Excess Balance to be funded on such Adjustment Date, as applicable, whereupon, the Agent shall thereupon remit to the Banks their respective shares of such funds, as applicable, and following such Adjustment Date, fees and interest accrued on Loans to but not including such Adjustment Date shall be payable to the Banks in accordance with their respective Pro Rata Shares prior to such Adjustment Date before giving effect to the readjustment thereof pursuant to the Commitment Schedule and Allocation Notice provided by the Company on such Adjustment Date; (iii) the Agent, the Company and such Applicant Financial Institution shall execute and deliver an agreement in the form of that attached hereto as **Exhibit G** (an “Additional Lender Agreement”), which agreement shall constitute an amendment to this Credit Agreement to the extent necessary to reflect the inclusion of such Applicant Financial Institution as a Bank hereunder, and if in connection with the inclusion of such Applicant Financial Institution as a Bank hereunder, the Total Warehouse Line Commitment will be





EXHIBIT B  
TO WAREHOUSING CREDIT AGREEMENT  
**COVENANT COMPLIANCE CERTIFICATE**

[On Company Letterhead]

TO: National City Bank

RE: \$50,000,000.00 Warehouse Line

Ladies and Gentlemen:

This Certificate is delivered pursuant to that certain Warehousing Credit Agreement (“Agreement”), dated as of November 26,2007 among National City Bank (the “Bank”), National City Bank, as agent for the Bank (the “Agent”), and Home Loan Center, Inc. d/b/a Lending Tree Loans (the “Company”). Capitalized terms used herein and not defined shall have the meanings ascribed thereto in the Agreement and the Schedules attached thereto.

I hereby certify to the Agent as follows:

1. I am, and at all times mentioned herein have been, the-duly-elected, qualified and acting \_\_\_\_\_ of the Company.

2. I have individually reviewed the provisions of the Agreement and Schedules thereto, and a review of the activities of Company has been made under my supervision with a view towards determining whether the Company has met and complies with the covenants as set forth in the Agreement.

3. Based on the foregoing review, the representations and warranties made in the Agreement are true and correct in all material respects as of the date hereof, and no Event of Default has occurred, nor does any circumstance exist which with the passage of time or giving notice, or both, would constitute an Event of Default under the Loan Documents.

4. There are no material actions, suits, legal, equitable, arbitration or administrative proceedings pending or threatened against Company, the adverse determination of which could have a material adverse effect on the Loan Documents, the business operations or financial condition of Company or the ability of Company to fulfill its obligations under the Loan Documents.

5. The ratio of Total Indebtedness to Tangible Net Worth, as calculated using the formula set forth in the Agreement, is

Requirement of Agreement: Leverage ratio shall not exceed ten (10) to one (1).

Covenant satisfied                      Covenant not satisfied

6. The Tangible Net Worth of the Company, as calculated using the formula set forth in the Agreement, is \$

Requirement of Agreement: Minimum Tangible Net Worth of Forty-Five Million Dollars (\$45,000,000.00).

Covenant satisfied                      Covenant not satisfied

7. The Liquid Assets of the Company as defined in the Agreement, is

Requirement of Agreement: Minimum Liquid Assets of Fourteen Million Dollars (\$14,000,000.00).

Covenant satisfied                      Covenant not satisfied

8. The financial statements prepared for the immediately preceding fiscal quarter and year are correct and complete as of their date and fairly present the results of operations of the Company for such periods.

9. All working papers and spreadsheets used in the preparation of this Covenant Compliance Certificate have been attached hereto.

This Covenant Compliance Certificate executed and delivered on \_\_\_\_\_, 200 .

**HOME LOAN CENTER, INC.D/B/A  
LENDINGTREE LOANS**

By \_\_\_\_\_

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

EXHIBIT C-1  
TO WAREHOUSING CREDIT AGREEMENT

**WAREHOUSE PROMISSORY NOTE**

\$50,000,000.00

Louisville, Kentucky  
November 26, 2007

For value received, HOME LOAN CENTER, INC. D/B/A LENDINGTREE LOANS, a California corporation with its principal office and place of business at 163 Technology Drive, Irvine, California 92618 (the "Maker"), hereby promises and agrees to pay to the order of NATIONAL CITY BANK, a national banking association, with a principal office and place of business in Louisville, Kentucky (the "Payee"), on or before the Termination Date (as defined in the Credit Agreement defined below), the principal sum of Fifty Million Dollars (\$50,000,000.00) or so much thereof as may be advanced to the Maker by the Payee as "Warehouse Advances" or "Excess Advances" under the Credit Agreement referred to below.

This Note is one of the Maker's "Warehouse Notes" referred to in and is issued pursuant to and is entitled to the benefits of that certain Warehousing Credit Agreement dated November 26, 2007 entered into by and among the Maker, the Bank or Banks a party thereto from time to time (including the Payee) and National City Bank, as Agent for such Bank or Banks (the "Agent") (as such agreement may hereafter be amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"; capitalized terms used herein without definition shall have the meanings assigned those terms in the Credit Agreement).

The unpaid principal balance of this Note, as the same shall exist from time to time, shall bear interest at the rates and in the manner set forth in the Credit Agreement. All payments of principal on this Note that are not paid when due and, to the extent permitted by applicable law, any interest payments on this Note or any fees or other amounts owed hereunder or under the Credit Agreement not paid when due, in each case whether at stated maturity, by notice of prepayment, by acceleration or otherwise, shall thereafter bear additional interest at the Default Rate until paid in full. Interest on delinquent principal and interest shall be payable on demand. In no event shall the interest rate or rates payable under this Note exceed the maximum rate allowed by law. Interest on this Note shall be computed on the basis of a 360-day year, for the actual number of calendar days elapsed in the period during which it accrues.

The Maker covenants and agrees to pay interest on the unpaid principal amount of this Note until paid in full at the rates, at the times and from the dates which shall be determined in accordance with the provisions of Article 2 of the Credit Agreement.

All payments of principal and interest in respect of this Note shall be made in lawful money of the United States of America in same day funds at the office of the Payee, located at 101 South Fifth Street, Louisville, Kentucky, or at such other place as shall be designated in writing for such purpose in accordance with the terms of the Credit Agreement. Until notified in writing of the transfer of this Note, the Maker and the Agent shall be entitled to deem the Payee or such person who has been so identified by the transferor in writing to the Maker and the Agent as the holder of this Note, as the owner and holder of this Note. Each of the Payee and any subsequent holder of this Note agrees that before disposing of this Note or any part thereof it will make a notation hereon or in its records of all principal payments previously made hereunder and of the date to which interest hereon has been paid; provided, however, that failure to make a notation of any payment made on this Note shall not limit or otherwise affect the obligation of the Maker hereunder with respect to payments of principal or interest on this Note.

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This Note is subject to mandatory prepayment and to prepayment at the option of the Maker as provided in of the Credit Agreement.

This Note is subject to restrictions on transfer and assignment as provided in the Credit Agreement.

**THE CREDIT AGREEMENT AND THIS NOTE SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE COMMONWEALTH OF KENTUCKY, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES.**

The terms of this Note are subject to amendment only in the manner provided in the Credit Agreement.

No reference herein to the Credit Agreement and no provision of this Note or the Credit Agreement shall alter or impair the obligation of the Maker, which is absolute and unconditional, to pay the principal of and interest on this Note at the place, at the respective times, and in the currency herein prescribed.

All payments made upon this Note shall be applied first to delinquent accrued interest, if any, then to the outstanding principal balance hereof and then to nondelinquent accrued interest hereon.

This Note is secured by the Security Agreement and each of the other Collateral Documents.

Upon the occurrence of any Event of Default under the Credit Agreement, or at any time thereafter, the entire unpaid principal balance of, and all accrued interest on, this Note may become, or may be declared to be, immediately due and payable in the manner, upon the conditions and with the effect provided in the Credit Agreement. If this Note is placed in the hands of an attorney for collection, or if this Note is collected through-any court, the Maker promises and agrees to pay to the Agent and the Payee all reasonable costs and expenses of collection permitted by law, including, but not limited to, attorneys' fees and court costs as provided in the Credit Agreement.

Failure of the Agent or the Payee to exercise any of its rights and remedies hereunder, or under the Credit Agreement, the Security Agreement or the other Loan Documents, shall not constitute a waiver of the right to exercise the same at that or any other time. All remedies of the Agent and the Payee in the event of a breach or default hereunder or under any of the instruments referred to herein shall be cumulative to the fullest extent permitted by law. Time shall be of the essence with respect to all of the Maker's obligations hereunder.

The Maker hereby waives presentment, demand, notice of dishonor, protest, notice of protest, and nonpayment and all exemptions to which it may be entitled under the laws of the Commonwealth of Kentucky, the State of California or any other state of the United States or of the United States, and

further agrees that the holder hereof shall have the right, subject to the provisions of the Credit Agreement, to grant the Maker any extension of time for payment of this Note, to modify the terms of any of the instruments referred to herein with the consent of all other parties thereto, or to release any party liable hereon without in any way affecting the liability of the Maker or any other parties liable for payment of this Note.

**EACH OF THE MAKER AND THE PAYEE, HEREBY WAIVES ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS NOTE OR THE OTHER LOAN DOCUMENTS. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS.**

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EACH OF THE MAKER AND THE PAYEE ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCENENT FOR EACH SUCH PARTY TO ENTER INTO A BUSINESS RELATIONSHIP, AND THAT EACH OF THE MAKER AND THE PAYEE HAS ALREADY RELIED ON THIS WAIVER IN ITS RELATED FUTURE DEALINGS WITH THE OTHER. EACH OF THE MAKER AND THE PAYEE FURTHER WARRANTS AND REPRESENTS THAT EACH HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS NOTE OR THE OTHER LOAN DOCUMENTS. IN THE EVENT OF LITIGATION, THIS NOTE MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

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IN WITNESS WHEREOF, the Maker has caused this Note to be duly executed and delivered by its duly authorized officer as of the date first written above.

**HOME LOAN CENTER, INC. D/B/A  
LENDINGTREE LOANS**

By: /s/ Jim Svinth

Title: COO

(the "Maker")

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EXHIBIT E  
TO WAREHOUSING CREDIT AGREEMENT

**SWING PROMISSORY NOTE**

\$

Louisville, Kentucky  
, 20

For value received, HOME LOAN CENTER, INC. D/B/A LENDINGTREE LOANS, a California corporation with its principal office and place of business at 163 Technology Drive, Irvine, California 92618 (the "Maker"), hereby promises and agrees to pay to the order of NATIONAL CITY BANK, a national banking association, with a place of business in Louisville, Kentucky (the "Payee"), on or before the Termination Date (as defined in the Credit Agreement defined below), the principal sum of \_\_\_\_\_ MILLION DOLLARS (\$ \_\_\_\_\_,000,000.00) or so much thereof as may be advanced to the Maker by the Payee as "Swing Advances" under the Credit Agreement referred to below.

This Note is the "Swing Note" referred to in and is issued pursuant to and is entitled to the benefits of that certain Warehousing Credit Agreement dated November 26, 2007 entered into by and among the Maker, the Bank or Banks party thereto from time to time and National City Bank, as agent for the Bank or Banks (the "Agent") (as such agreement may be amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"; capitalized terms used herein without definition shall have the meanings assigned those terms in the Credit Agreement).

The unpaid principal balance of this Note, as the same shall exist from time to time, shall bear interest at the rates and in the manner set forth in the Credit Agreement. All payments of principal on this Note that are not paid when due and, to the extent permitted by applicable law, any interest payments on this Note or any fees or other amounts owed hereunder or under the Credit Agreement not paid when due, in each case whether at stated maturity, by notice of prepayment, by acceleration or otherwise, shall thereafter bear additional interest at the Default Rate until paid in full. Interest on delinquent principal and interest shall be payable on demand. In no event shall the interest rate or rates payable under this Note exceed the maximum rate allowed by law. Interest on this Note shall be computed on the basis of a 360-day year, for the actual number of calendar days elapsed in the period during which it accrues.

The Maker covenants and agrees to pay interest on the unpaid principal amount of this Note until paid in full at the rates, at the times and from the dates which shall be determined in accordance with the provisions of **Article 2** of the Credit Agreement.

All payments of principal and interest in respect of this Note shall be made in lawful money of the United States of America in same day funds at the office of the Agent, located at 101 South Fifth Street, Louisville, Kentucky, or at such other place as shall be designated in writing for such purpose in

accordance with the terms of the Credit Agreement. Until notified in writing of the transfer of this Note, the Maker and the Agent shall be entitled to deem the Payee or such person who has been so identified by the transferor in writing to the Maker and the Agent as the holder of this Note, as the owner and holder of this Note. Each of the Payee and any subsequent holder of this Note agrees that before disposing of this Note or any part thereof it will make a notation hereon or in its records of all principal payments previously made hereunder and of the date to which interest hereon has been paid; provided, however, that failure to make a notation of any payment made on this Note shall not limit or otherwise affect the obligation of the Maker hereunder with respect to payments of principal or interest on this Note.

---

This Note is subject to mandatory prepayment and to prepayment at the option of the Maker as provided in the Credit Agreement.

This Note is subject to restrictions on transfer and assignment as provided in the Credit Agreement.

**THE CREDIT AGREEMENT AND THIS NOTE SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE COMMONWEALTH OF KENTUCKY, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES.**

The terms of this Note are subject to amendment only in the manner provided in the Credit Agreement.

No reference herein to the Credit Agreement and no provision of this Note or the Credit Agreement shall alter or impair the obligation of the Maker, which is absolute and unconditional, to pay the principal of and interest on this Note at the place, at the respective times, and in the currency herein prescribed.

All payments made upon this Note shall be applied first to delinquent accrued interest, if any, then to the outstanding principal balance hereof and then to nondelinquent accrued interest hereon.

This Note is secured by the Security Agreement and each of the other Collateral Documents.

Upon the occurrence of any Event of Default under the Credit Agreement, or at any time thereafter, the entire unpaid principal balance of and all accrued interest on, this Note may become, or may be declared to be, immediately due and payable in the manner, upon the conditions and with the effect provided in the Credit Agreement. If this Note is placed in the hands of an attorney for collection, or if this Note is collected through any court, the Maker promises and agrees to pay to the Agent and the Payee all reasonable costs and expenses of collection permitted by law, including, but not limited to, attorneys' fees and court costs as provided in the Credit Agreement.

Failure of the Agent or the Payee to exercise any of its rights and remedies hereunder, or under the Credit Agreement, the Security Agreement or the other Loan Documents, shall not constitute a waiver of the right to exercise the same at that or any other time. All remedies of the Agent and the Payee in the event of a breach or default hereunder or under any of the instruments referred to herein shall be cumulative to the fullest extent permitted by law. Time shall be of the essence with respect to all of the Maker's obligations hereunder.

The Maker hereby waives presentment, demand, notice of dishonor, protest, notice of protest, and nonpayment and all exemptions to which it may be entitled under the laws of the Commonwealth of Kentucky, the State of California or any other state of the United States, or of the United States, and further agrees that the holder hereof shall have the right, subject to the provisions of the Credit Agreement to grant the Maker any extension of time for payment of this Note, to modify the terms of any of the instruments referred to herein with the consent of all other parties thereto, or to release any party liable hereon without in any way affecting the liability of the Maker or any other parties liable for payment of this Note.

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EACH OF THE MAKER AND THE PAYEE HEREBY WAIVES ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS NOTE OR THE OTHER LOAN DOCUMENTS. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. EACH OF THE MAKER AND THE PAYEE ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT FOR EACH SUCH PARTY TO ENTER INTO A BUSINESS RELATIONSHIP, AND THAT EACH OF THE MAKER AND THE PAYEE HAS ALREADY RELIED ON THIS WAIVER IN ITS RELATED FUTURE DEALINGS WITH THE OTHER. EACH OF THE MAKER AND THE PAYEE FURTHER WARRANTS AND REPRESENTS THAT EACH HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS NOTE OR THE OTHER LOAN DOCUMENTS. IN THE EVENT OF LITIGATION, THIS NOTE MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

[The remainder of this page has been intentionally left blank.]

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IN WITNESS WHEREOF, the Maker has caused this Note to be duly executed and delivered by its duly authorized officer as of the day, month and year first written above.

**HOME LOAN CENTER, INC. D/B/A  
LENDINGTREE LOANS**

By: /s/ Jim Svinth

Title: COO

(the "Maker")

EXHIBIT G  
TO WAREHOUSING CREDIT AGREEMENT

ADDITIONAL LENDER AGREEMENT

THIS ADDITIONAL LENDER AGREEMENT (the "AL Agreement") is made and dated as of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_ (the "Applicant Financial Institution"), NATIONAL CITY BANK, as "Agent" under the Credit Agreement referred to in Recital A below (in such capacity, the "Agent"), and HOME LOAN CENTER, INC. D/B/A **LENDINGTREE** LOANS, a California corporation (the "Company").

RECITALS

A. The Applicant Financial Institution desires to become a "Bank" under that certain Warehousing Credit Agreement dated as of November 26, 2007 (as may be amended, supplemented and modified from time to time, the "Credit Agreement") by and among the Agent, the Banks currently participating therein (collectively, the "Existing Banks") and the Company, effective as of \_\_\_\_\_, 20\_\_ (the "Adjustment Date"). Capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Credit Agreement.

B. The Applicant Financial Institution has been approved for inclusion as a Bank under the terms of the Credit Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

1. The Applicant Financial Institution hereby acknowledges and agrees that from and after the Adjustment Date it shall be a party to the Credit Agreement and the other Loan Documents as a "Bank" thereunder for all purposes and shall be entitled to all rights, benefits and privileges accorded a Bank thereunder and shall be subject to all obligations of a Bank thereunder.

2. The Applicant Financial Institution hereby agrees to purchase on the Adjustment Date and to accept the assignment and transfer of a portion of the obligations held by the Existing Banks consistent with the Commitment Schedule and Allocation Notice delivered by the Agent effective as of the Adjustment Date, a copy of which is attached hereto as Exhibit A.

3. The Applicant Financial Institution: (a) represents, warrants and covenants that (i) it is a banking corporation or other warehouse lender duly organized under the laws of the State of \_\_\_\_\_, (ii) it is regularly engaged in the business of mortgage warehousing lending, and (iii) it has capital and surplus of at least Three Hundred Million Dollars (\$300,000,000.00); (b) confirms that it has received a copy of the Loan Documents, together with copies of any financial statements requested by the Applicant Financial Institution and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this AL Agreement, (c) agrees that it will, independently and without reliance upon the Agent or any Existing 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 the Loan Documents, (d) appoints and authorizes the Agent to take such actions as agent on its behalf and to exercise such powers under

the Loan Documents as are delegated to the Agent by the terms thereof on the terms set forth therein, including, without limitation, the terms set forth in **Article 10** of the Credit Agreement entitled "The Agent", (e) agrees that on and after the Adjustment Date it will perform all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Bank, and (f) agrees that its payment instructions and notice instructions are as set forth in Schedule I attached hereto.

4. Notices shall be given under this AL Agreement in the manner set forth in the Credit Agreement.

5. The address of the Applicant Financial Institution for purposes of the Credit Agreement shall be as set forth beneath its signature below.

6. This AL Agreement shall be governed by and construed and interpreted in accordance with the laws of the Commonwealth of Kentucky.

7. This AL Agreement may be executed in counterparts and such counterparts together shall constitute one and the same agreement.

8. This AL Agreement, when executed by each of the parties hereto shall constitute an amendment of the Credit Agreement consistent with the Commitment Schedule and Allocation Notice referred to in Paragraph 2 above.

IN WITNESS WHEREOF, the undersigned have duly executed this Additional Lender Agreement as of the day and year first above written.

APPLICANT FINANCIAL  
INSTITUTION:

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

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

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

Address: \_\_\_\_\_

Attn: \_\_\_\_\_

NATIONAL CITY BAIVK,  
a national banking association

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

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

(“Agent”)

HOME LOAN CENTER, INC. D/B/A  
LENDINGTREE LOANS,  
a California corporation

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

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

(“Company”)

SCHEDULE 1.1  
TO WAREHOUSING CREDIT AGREEMENT

**APPROVED INVESTOR LIST**

[See attached list]

<u>Investor Name</u>	<u>Investor Desk Contact</u>	<u>Contact Phone#</u>	<u>Contact Email</u>	<u>Investor Audit Contac</u>	<u>Contact Phone#</u>	<u>Contact Email</u>
<b><u>Best Effort Commitments</u></b>						
Aurora Loan Services	Christian Stevens	(720) 945-5353	cstevens@alservices.com			
BayView Financial Trading Group	Peter Wicknertz	(305) 341-3673	peterwicknertz@bayviewfinancial.com			
Charter One	Margo Knopf	(513) 833-2808	mknopf@CharterOneBank.com			
Chase Home Finance LLC	Miguel Parducho	(661) 297-5175	miqdel.s.parducho@chase.com			
Citi Mortgage	Mauricio Perez	(805) 578-4698	mauricio.perez@citigroup.com			
Countrywide Home Loans	Josh Copeland	(415) 835-1233	Joshua_Copeland@countrywide.com			
Deutsche Bank	Bill Moss	(212) 250-2367	william.moss@db.com			
EMC Mortgage Corporation / Bear Stearns	Erin Johnson	(214) 626-3301	Erin.Johnson@bear.com			
GMAC Bank	Pat Gilmore	(714) 849-3679	Pat iGilmore@GMACM.COM			
Goldman Sachs	Sandra Keebler	(212) 902-5626	sandra.keebler@gs.com			
Greenpoint Mortgage	Martha Satterfield	(323) 850-5744	martha.satterfield@greenpoint.com			
IndyMac	Edward Aloe	(626) 535-5298	edwbrd.aloe@indvrmacbank.com			
National City Mortgage	Brian Barnes	(602) 392-1192	Brian.Barnes@ncmc.com			
Residential Funding Corporation	Pat Gilmore	(714) 849-3679	Pat Gilmore@GMACM.COM			
Wells Fargo Bank	Eddie Fernandez	(949) 347-2063	edward.fernandez@wellsfargo.com			
Countrywide Securities Corp	Robert Wellerstein	(818) 225-3804	robert.wellerstein@countrywide.com			
Franklin Credit Management Corp.	Bob Balsamo	(201) 604-4451	bbalsamo@franklincredit.com			
U.S. Bank						
Freddie Mac						
Fannie Mae						
<b><u>MBS/AOT Trades</u></b>						
Bear Stearns	Mieko Willoughby	(877) 391-4039	mwilloughby@bear.com			
Goldman Sachs	Steve Harris	(212) 902-4570	steve.harris@gs.com			
Lehman Brothers	Adrienne Coyle	(212) 526-7605	adrienne.coyle@lehman.com			
Merrill Lynch	Kathy Wade	(206) 340-4334	kathy_wade@ml.com			
WaMu Capital	Kimberly Cottrell	(212) 702-6906	kimberly.cottrell@wamu.net			

SCHEDULE 6.1  
TO WAREHOUSING CREDIT AGREEMENT

**REPRESENTATION AND WARRANTY DISCLOSURES**

A. Legal Name, State of Organization and Principal Place of Business for the Company

- (i) Home Loan Center, Inc. d/b/a LendingTree Loans
- (ii) California
- (iii) 163 Technology Drive  
Irvine, California 92618

B. Material Adverse Changes in Financial Condition of the Company

[To Be Provided by the Company]

C. Material Obligations, Liabilities, Taxes or Financial Obligations of the Company

[To Be Provided by the Company]

D. Litigation of the Company

[To Be Provided by the Company]

E. Legal Name, State of Organization and Principal Place of Business for each Affiliate

[To Be Provided by the Company]

F. Loans in Excess of \$100,000.00

[To Be Provided by the Company]

G. Assumed and Fictitious Names of the Company

[To Be Provided by the Company]

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**MASTER REPURCHASE AGREEMENT**  
(the "Agreement")

between

**COUNTRYWIDE BANK, FSB**  
("Buyer")

and

**HOME LOAN CENTER, INC.**  
("Seller")

dated as of

**January 25, 2008**

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MASTER REPURCHASE AGREEMENT

THIS MASTER REPURCHASE AGREEMENT (the "**Agreement**") is made and entered into as of January 25, 2008 by and between Countrywide Bank, FSB, a California corporation ("**Buyer**"), and Home Loan Center, Inc., a California corporation ("**Seller**").

RECITALS

- A. Seller has requested Buyer to enter into transactions with Seller whereby Seller may, from time to time, sell to Buyer certain 1<sup>st</sup> and 2<sup>nd</sup> lien residential mortgage loans and/or other mortgage related assets and interests, against the transfer of funds by Buyer, with a simultaneous

agreement by Buyer to sell to Seller such purchased assets at a date certain after the Purchase Date, against the transfer of funds by Seller (each such transaction, a “**Transaction**”).

- B. Buyer has agreed to enter into such Transactions, subject to the terms and conditions set forth in this Agreement.
- C. Seller and Buyer have previously entered into that certain Revolving Credit and Security Agreement dated March 17, 2003 (the “**Warehouse Agreement**”). As of the date of this Agreement, Seller has one or more outstanding Advances (as defined in the Warehouse Agreement) under the Warehouse Agreement and Buyer has a secured interest in the Collateral (as defined in the Warehouse Agreement) pledged by Seller for such outstanding Advances. By execution of this Agreement, Seller and Buyer restate their respective rights, obligations and interests with respect to such Advances and Collateral, and hereby agree that such Collateral shall constitute Purchased Assets and that such outstanding Advances shall constitute the Purchase Price for the Purchased Mortgage Loans relating to such Purchased Assets (as each such term is defined in this Agreement). Further, each Purchased Mortgage Loan shall be subject to a Transaction hereunder as of the Effective Date. The restatement of rights, obligations and interests of Seller and Buyer under this recital shall not be a novation of the Warehouse Agreement and such rights, obligations and interests shall be continuous.

NOW, THEREFORE, in consideration of the mutual rights and obligations provided herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Seller and Buyer agree as follows:

## ARTICLE 1 DEFINITIONS AND PRINCIPLES OF CONSTRUCTION

- 1.1 **Defined Terms.** As used in this Agreement, capitalized terms shall have the meanings set forth in Exhibit A hereto, unless the context otherwise requires. All such defined terms shall, unless specifically provided to the contrary, have the defined meanings set forth herein when used in any other agreement, certificate or document made or delivered pursuant hereto.
- 1.2 **Principles of Constructions.**
  - (a) Accounting Terms. Accounting terms not otherwise defined herein shall have the meanings given under GAAP.
  - (b) Number. All terms defined in this Agreement may be used in the singular or the plural, as the context requires.
  - (c) Successors and Assigns. Reference to any party shall mean that party and its successors and assigns permitted by the terms of this Agreement.

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## ARTICLE 2 AMOUNT AND TERMS OF TRANSACTIONS

- 2.1 **Agreement to Enter into Transactions.** Subject to the terms and conditions of this Agreement and provided that no Event of Default has occurred and is continuing, Buyer agrees, from time to time during the term of this Agreement, to enter into Transactions with Seller; provided, however, that the Buyer shall not have any obligation to enter into any Transaction which will cause the total aggregate Transactions outstanding at any one time to exceed the Aggregate Transaction Limit or the aggregate type of Transactions outstanding at any one time to exceed the applicable Type Sublimit.
- 2.2 **Transaction Limits.** The Aggregate Transaction Limit and each Type Sublimit shall be as set forth in the Transactions Terms Letter. Upon the occurrence of an Event of Default, Buyer shall have the right, in its sole and good faith discretion, to reduce, whether permanently or temporarily, and without refund of any fee or other amount previously paid by Seller, the Aggregate Transaction Limit and/or each Type Sublimit. In the event of any reduction pursuant to this Section 2.2, Buyer shall give Seller prior written notice thereof, which notice shall designate (a) the effective date of any such reduction, (b) the amount of the reduction and (c) the Transaction and/or Type Sublimit limit(s) to which such reduction amount shall apply. Buyer shall not be liable to Seller for any costs, losses or damages arising from or relating to a reduction by Buyer in the Aggregate Transaction Limit or any Type Sublimit.
- 2.3 **Description of Purchased Assets.** With respect to each Transaction, Seller shall cause to be maintained with Buyer Purchased Assets consisting of a Purchased Mortgage Loan(s) with a Asset Value not less than, at any date, the related Purchase Price for such Transaction. With respect to each Transaction, the type of Purchased Mortgage Loan shall be the type of Mortgage Loan as specified in the Transactions Terms Letter as the Type, and in each case shall consist of the type of mortgage loans, mortgage related securities, or interests therein as described in Bankruptcy Code section 101(47)(A). If there is uncertainty as to the Type of a Purchased Mortgage Loan, Buyer, in its sole and good faith discretion, shall determine the correct Type for such Purchased Mortgage Loan.
- 2.4 **Maximum Transaction Amounts.** Each Transaction shall not exceed the lesser of:
  - (a) the applicable Type Sublimit, as determined by the type of Purchased Mortgage Loan;
  - (b) the Aggregate Transaction Limit, minus the aggregate amount of all other Transactions outstanding, if any; and
  - (c) the Asset Value of the related Purchased Mortgage Loan(s).
- 2.5 **Use of Proceeds.** Seller shall use the Purchase Price of each Transaction solely for the purpose of originating and/or acquiring the related Purchased Mortgage Loan(s).
- 2.6 **Price Differential.**
  - (a) Pricing Rate. Notwithstanding that Buyer and Seller intend that the Transactions hereunder be sales by Seller to Buyer of the Purchased Mortgage Loans for all purposes except accounting and tax purposes, Seller shall pay Buyer a price differential on the Purchase Price for

each Purchased Mortgage Loan from the Date of Disbursement until, but not including, the date of repurchase, at an annual rate equal to the sum of the Applicable Pricing Rate plus the applicable Margin; provided, however, that if a Purchased Mortgage Loan is deemed to be a Noncompliant Mortgage Loan, thereafter, such Purchase Price shall bear a price differential at an annual rate equal to the sum of the Applicable Pricing Rate plus the Type Margin for a Noncompliant Mortgage Loan.

Notwithstanding the foregoing, if the Repurchase Price for a Transaction is not paid by Seller when due (whether at the Repurchase Date, upon acceleration or otherwise), the Purchase Price shall bear a price differential from the date due until paid in full at an annual rate equal to the Default Rate.

- (b) **Time for Payment.** Accrued interest for each Purchase Price shall be due and payable on each Payment Date which occurs prior to the date on which the Repurchase Price is paid. On the date that the Repurchase Price is paid, all accrued interest not otherwise paid by Seller shall be due and payable.
- (c) **Computations.** All computations of price differentials and fees payable hereunder shall be based upon a year of three-hundred sixty (360) days.

2.7 **Terms and Conditions of Transactions.** Upon the occurrence of an Event of Default, the terms and conditions of the Transactions as set forth in the Transactions Terms Letter, this Agreement or otherwise may be changed from time to time by Buyer at its sole and good faith discretion by providing prior notice to Seller.

2.8 **Guarantee.** As may be determined necessary by Buyer from time to time in its sole and good faith discretion and as indicated in the Transactions Terms Letter, Seller agrees to cause to be executed and delivered to Buyer such Guarantees and/or additional security agreements as additional support for Seller's obligations hereunder, which Guarantees and/or additional security agreements shall be considered "margin payments" as such term is defined in Bankruptcy Code Section 741(5).

### ARTICLE 3 PROCEDURES FOR REQUESTING AND ENTERING INTO TRANSACTIONS

3.1 **Policies and Procedures.** In connection with the Transactions contemplated hereunder, Seller shall comply with all applicable policies and procedures of Buyer as may currently exist or as hereafter created to conform to current legal and reasonable market requirements. Such policies and procedures may be in writing, published on Buyer's website(s) or otherwise contained in the Handbook. Buyer shall have the right to change, revise, amend or supplement its policies and procedures and the Handbook from time to time to conform to current legal requirements or Buyer practices by giving advance notice via Buyer's website thereof to Seller.

3.2 **Request for Transaction; Asset Data Record.**

- (a) **Request for Transaction.** Seller shall request a Transaction by delivering to Buyer, electronically or in writing, an Asset Data Record for each Mortgage Loan intended to be the subject of the Transaction no later than the Transaction Request Deadline; provided, however, that if Seller intends to request a Transaction or series of Transactions equal to or greater than ten million (\$10,000,000) dollars, Seller shall provide Buyer not fewer than one (1) Business Day prior written notice thereof. If Buyer determines that the requested Transaction complies with the terms and conditions of this Agreement, Buyer shall confirm to Seller the terms of Transactions electronically or in writing. Buyer reserves the right to reject any Transaction request that Buyer determines, in its sole and good faith discretion, fails to comply with the terms and conditions of this Agreement or Buyer's then current policies and procedures, which current policies and procedures shall be available via Buyer's website prior to any request for a Transaction.
- (b) **Failure to Enter into Transaction: Cancellation of Transaction.** Other than those Transactions that Buyer declines, or a return of Repurchase Price of a Wet Mortgage Loan as defined in Section 3.6(d) if Seller fails five (5) times or more to enter into a particular Transaction after Seller has requested a particular Transaction and submitted a

Asset Data Record in connection with such request, for each Transaction requested by Seller thereafter for which Seller fails to enter into such Transaction, Seller shall pay Buyer the Breakage Fee and reimburse Buyer for any reasonable out-of-pocket losses, costs and expenses incurred by Buyer in connection with such failure to enter into the Transaction, including, without limitation, costs relating to re-employment of funds obtained by Buyer and fees payable to terminate the arrangements through which such funds were obtained. In addition, if following disbursement by Buyer of the Purchase Price relating to any Transaction, Seller cancels such Transaction, regardless of the number of Transactions Seller has previously cancelled, Seller shall pay Buyer a price differential on such Purchase Price from the Date of Disbursement until, but not including, the date the Purchase Price is returned to Buyer.

- (c) **Form of Asset Data Record.** Buyer shall have the right to revise or supplement the form of the Asset Data Record from time to time by giving reasonable prior notice thereof to Seller via Buyer's website.

3.3 **Delivery of Mortgage Loan Documents.**

- (a) **Dry Mortgage Loans.** Prior to any Transaction related to a Dry Mortgage Loan, Seller shall deliver to Buyer acting as custodian or its Custodian, or authorize and direct the Closing Agent to deliver to Buyer acting as custodian or its Custodian, the related Mortgage Loan Documents.
- (b) **Wet Mortgage Loans.** With respect to a Transaction the subject of which is a Wet Mortgage Loan, Seller shall deliver to Buyer or its Custodian, or authorize and direct the Closing Agent to deliver to Buyer or its Custodian, the related Mortgage Loan Documents within the

- (c) Government Mortgage Loans. If a Government Mortgage Loan is the subject of a Transaction, Seller shall, at the request of Buyer, deliver to Buyer acting as custodian or its Custodian, within sixty (60) calendar days following the date of such Transaction, a mortgage insurance policy issued under an FHA insurance program or a guaranty for the full and timely payment of principal and interest issued by the VA, as applicable, or evidence of such insurance or guaranty, as applicable, including proof of payment of the premium and the case number so Buyer can access the information on the computer system maintained by FHA or the VA.
- (d) Mortgage Loan Documents in Seller's Possession. At all times during which the Mortgage Loan Documents related to any Purchased Mortgage Loan are in the possession of Seller, and until such Purchased Mortgage Loan is repurchased by Seller, Seller shall hold such Mortgage Loan Documents in trust for the exclusive benefit of Buyer and shall act only in accordance with Buyer's written instructions thereto.
- (e) Other Mortgage Loan Documents in Seller's Possession. With respect to each Purchased Mortgage Loan, until such Purchased Mortgage Loan is repurchased by Seller, Seller shall hold in trust all mortgage loan documents related to such Purchased Mortgage Loan and not delivered to Buyer, including, without limitation, the Other Mortgage Loan Documents, as applicable.

3.4 Haircut. With respect to each Transaction, Seller shall ensure that there are sufficient funds on deposit in the Over/Under Account such that following the withdrawal of the Haircut by Buyer, the balance of the Over/Under Account is equal to or greater than the minimum required balance, as set forth in the Transactions Terms Letter.

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3.5 Over/Under Account.

- (a) Minimum Balance. Seller shall at all times maintain a margin balance in the Over/Under Account of not less than that amount set forth in the Transactions Terms Letter, which account shall be used to assist in settling the Transactions and any other obligations under this Agreement. Buyer shall not be required to segregate and hold funds deposited by or on behalf of Seller in the Over/Under Account separate and apart from Buyer's own funds or funds deposited by or held for others. Upon the occurrence of an Event of Default, Buyer shall have the right, in its sole and good faith discretion, to increase the minimum margin balance Seller is required to maintain in the Over/Under Account by giving notice to Seller thereof.
- (b) Deposits.
  - (i) Seller. Seller shall deposit margin in the form of funds in the Over/Under Account in accordance with the terms of this Agreement, including, without limitation, Section 3.4 and Section 3.5(a).
  - (ii) Buyer. Buyer shall credit to the Over/Under Account all amounts in excess of those amounts due to Buyer in accordance with the Principal Agreements on the date Buyer receives or has received both (1) a payment by Seller or an Approved Investor pursuant to a Purchase Commitment and (2) a Purchase Advice relating to such payment without discrepancy; provided, however, that funds and Purchase Advices received by Buyer after that time set forth in the Transactions Terms Letter, shall be deemed to have been received on the next Business Day. Buyer shall use reasonable efforts to notify Seller if there is a discrepancy between a wire transfer and the related Purchase Advice, and thereafter, Seller shall notify Buyer as to whether Buyer should accept such settlement payment despite the discrepancy between the amount received and the related Purchase Advice; provided, however, that if an Event of Default has occurred and is continuing, Buyer is not obligated to receive approval from Seller prior to accepting any amounts received and releasing the related Purchased Assets.
  - (iii) Settlement Statement. Buyer shall deliver to Seller via facsimile or make available to Seller via the Internet within one (1) Business Day following settlement of an Transaction, or as soon thereafter as is reasonably possible, a settlement statement, which includes an explanation of all amounts credited by Buyer to the Over/Under Account to settle the Transaction.
- (c) Withdrawals.
  - (i) Seller. If the amount credited to the Over/Under Account creates a balance in excess of the minimum margin balance required pursuant to Section 3.5(a) above, provided that no Event of Default has occurred and is continuing, Seller may submit a written request to Buyer for return or payment of such excess funds. If any such request is received by Buyer prior to 10:00 a.m. (Pacific time) on a Business Day, Buyer shall use commercially reasonable efforts to wire such requested excess funds to Seller by the end of such Business Day and in no event no later than two (2) Business Days after Buyer's receipt of such request. Notwithstanding anything contained in this Section 3.5(c)(i) to the contrary, Buyer reserves the right to reject any request for excess funds from the Over/Under Account if Buyer determines, in its sole and good faith discretion, that such excess funds shall be used to satisfy Seller's outstanding obligations under this Agreement or are subject to other rights as provided in this Agreement.

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- (ii) Buyer. Buyer may, from time to time and without separate authorization by Seller or notice to Seller, withdraw funds from the Over/Under Account to settle amounts owed in accordance with the terms of this Agreement or to otherwise satisfy Seller's obligations under this Agreement, including, without limitation:
    - (1) with respect to any Transaction, to deliver the Haircut to the Closing Agent;
    - (2) to reimburse itself for any reasonable costs and expenses incurred by Buyer as contemplated by this Agreement, and as permitted herein;

- (3) to pay itself any price differential on a Purchase Price that is due and owing;
  - (4) to Seller as provided in Section 3.5(c)(i);
  - (5) as security for the performance of Seller's obligations hereunder;
  - (6) without limiting the generality of Section 3.5(c)(ii)(5), as security for a Transaction as provided in Section 6.3(a) or as repayment of a Repurchase Price as provided in Section 6.3(b); and
  - (7) in the exercise of Buyer's or its Affiliates' rights under Section 6.3(d) or Section 11.8.
- (d) **Failure to Maintain Balance.** If, at any time, Seller fails to maintain in the Over/Under Account the minimum margin balance as required hereunder, in addition to any other rights and remedies that Buyer may have against Seller, and upon one (1) Business Day notice, Buyer shall have the right, at its sole and good faith discretion, to stop entering into Transactions with Seller and/or to charge Seller accrued interest on that portion of the minimum margin balance that Seller has failed to maintain, at the Default Rate, from the time that such balance failed to be maintained until the time that funds are deposited into or held in the Over/Account to comply with such minimum margin balance requirements hereunder. Without limiting the generality of the foregoing, it is understood and agreed that should the balance in the Over/Under Account become negative, Seller will continue to owe Buyer accrued interest as provided herein.
- (e) **Security Interest.** Any funds of Seller at any time deposited or held in the Over/Under Account, whether such funds are required to be deposited and held in the Over/Under Account pursuant to this Section 3.5 or otherwise, are hereby pledged by Seller as security for its obligations under this Agreement, and Seller hereby grants a security interest in such funds to Buyer.

### 3.6 Payment of Purchase Price.

- (a) **Payment of Purchase Price.** On the Purchase Date for each Transaction, ownership of the Purchased Mortgage Loans shall be transferred to Buyer against the simultaneous transfer of the Purchase Price to Seller simultaneously with the delivery to Buyer of the Purchased Mortgage Loans relating to each Transaction. With respect to the Purchased Mortgage Loans being sold by Seller on the Purchase Date, Seller hereby sells, transfers, conveys and assigns to Buyer or its designee without recourse, but subject to the terms of this Agreement, all the right, title and interest of Seller in and to the Purchased Mortgage Loans together with all right, title and interest in and to the proceeds of any related Purchased Assets.

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- (b) **Methods of Payment.** On the Purchase Date for each Transaction:
- (i) Buyer may pay the Purchase Price (A) by wire transfer in accordance with Seller's wire instructions in Exhibit J, (B) if Seller is approved to receive the Purchase Price via cashiers check and has requested to receive the Purchase Price via cashiers check, by cashiers check or (C) if Seller is approved to present funding drafts to Buyer and Seller has requested to receive the Purchase Price via funding draft, by funding draft, subject to the requirements of Section 3.8. Unless Seller is approved to receive the Purchase Price via cashiers check or funding draft and Seller has requested that payment be made using one of these methods for a particular Transaction, Buyer shall pay the Purchase Price for all Transactions by wire transfer. Buyer shall have no obligation to pay the Purchase Price by cashiers check or funding draft unless and until Seller has requested to receive payment in such manner and Seller has otherwise complied with all applicable policies and procedures regarding such methods of payment. Notwithstanding the foregoing, Buyer shall not be obligated to pay the Purchase Price under any method of payment to any Closing Agent or warehouse lender that is not an Approved Payee. Further, the payment of the Purchase Price by Buyer to any Closing Agent or warehouse lender that is not an Approved Payee shall not make such Closing Agent or warehouse lender an Approved Payee. Any funds disbursed by Buyer to Seller or its Approved Payee shall be subject to all applicable federal, state and local laws, including, without limitation, regulations and policies of the Board of Governors of the Federal Reserve System on Reduction of Payments System Risk. Seller acknowledges that as a result of such applicable laws, regulations and policies, equipment malfunction, Buyer's approval procedures or circumstances beyond the reasonable control of Buyer, the payment of a Purchase Price using one or more of the methods described above may be delayed. Further, Seller acknowledges that a funding draft may not constitute "good funds" under certain state laws and funds will not be released to the payee until Buyer, in its sole and good faith discretion, has reviewed and accepted the funding draft following presentment of the draft to the payor bank. Buyer shall not be liable to Seller for any costs, losses or damages arising from or relating to any such delays; or
  - (ii) Notwithstanding the foregoing, where a Purchased Mortgage Loan is the subject of third party financing, Buyer may pay all or any portion of the Purchase Price directly to the warehouse or other lender that has a security interest in the Purchased Mortgage Loan to satisfy the related indebtedness and obtain a release of such security interest.
- (c) **Transaction Limitations and Other Restrictions Relating to Closing Agents.** Notwithstanding that a particular Transaction request will not exceed the Aggregate Transaction Limit or applicable Type Sublimit, if the payment of the Purchase Price for such Transaction to the related Closing Agent will violate Buyer's applicable policies and procedures (as contained in the Handbook or otherwise) regarding payments to Closing Agents, Buyer may refuse to pay the Purchase Price to such Closing Agent.
- (d) **Return of Purchase Price.** If a Wet Mortgage Loan subject to a Transaction is not closed within three (3) Business Days following the payment of the Purchase Price, Seller shall immediately return, or cause to be immediately returned, the Purchase Price to Buyer. If the Purchase Price was paid by cashiers check or funding draft, Seller shall immediately void, or cause to be immediately voided (i.e. direct the Closing Agent to immediately void) the cashiers check or funding draft, as applicable. Further, Seller shall pay Buyer all fees and any price differential thereon immediately upon notification from Buyer; provided, however, that price differential shall continue to accrue until the Purchase Price is returned to Buyer or the voided cashiers check is received and cancelled by Buyer, as

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applicable. If a cashier's check has been issued with respect to any Transaction, Buyer shall not be obligated to wire funds or issue another cashier's check to fund such Transaction until the original voided cashier's check has been received and cancelled by Buyer.

### 3.7 Approved Payees.

- (a) Closing Agents. In order for a Closing Agent to be designated an Approved Payee with respect to any Purchase Price, Seller shall submit to Buyer the following documents:
- (i) if the title company issuing the title policy that covers the applicable Purchased Mortgage Loan has not issued to Buyer a blanket Closing Protection Letter, which covers closings conducted by this Closing Agent in the jurisdiction where this closing will take place:
- (1) a valid blanket Closing Protection Letter, in a form acceptable to Buyer, issued to Seller or Buyer by the title company, which is issuing the title insurance policy that covers the related Purchased Mortgage Loan, that covers closings conducted by the Closing Agent in the jurisdiction where this closing will take place and if applicable, an assignment to Buyer of such Closing Protection Letter, substantially in the form of Exhibit F hereto; or
  - (2) a valid Closing Protection Letter, in a form acceptable to Buyer, issued to Seller or Buyer by the title company, which is issuing the title insurance policy that covers the related Purchased Mortgage Loans, that covers the closing of this specific Purchased Mortgage Loan and if applicable, an assignment to Buyer of such Closing Protection Letter, substantially in the form of Exhibit F hereto; or
  - (3) if Closing Protection Letters are not available or are limited in their applicability in the jurisdiction where the closing takes place, any other documents Buyer may reasonably require, including without limitation an assignment to Buyer of Seller's rights under its fidelity bond and errors and omissions policy, substantially in the form of Exhibit F hereto; and
- (ii) evidence that the Irrevocable Closing Instructions, in the applicable form and signed by Seller and Buyer, have been delivered to such Closing Agent.
- (b) Warehouse Lenders. In order for a warehouse lender to be designated an Approved Payee with respect to any Purchase Price, Seller shall submit to Buyer a written request, including the name and address of the warehouse lender, demonstrating a need for such designation. Notwithstanding the foregoing, Buyer reserves the right to refuse to designate any warehouse lender as an Approved Payee, or, alternatively, to require additional terms and conditions in order for Buyer to pay a Purchase Price to the warehouse lender.
- (c) Approval Process. Buyer shall review the applicable documents and notify Seller within two (2) Business Days as to whether such Closing Agent or warehouse lender has been designated by Buyer, in its sole and good faith discretion, to be an Approved Payee with respect to such Purchase Price. Buyer may withdraw its approval of any Closing Agent or warehouse lender as an Approved Payee if Buyer becomes aware of any facts or circumstances at any time related to such Closing Agent or warehouse lender which Buyer determines, in its sole and good faith discretion, materially and adversely affects

the Closing Agent or warehouse lender or otherwise makes the Closing Agent or warehouse lender unacceptable as an Approved Payee upon notification to Seller.

### 3.8 Funding Drafts.

- (a) Blank Funding Drafts. If Seller is approved by Buyer to receive Purchase Prices by funding draft, Buyer, at its discretion, shall provide Seller with a limited number of blank drafts. Seller shall store such blank drafts in a secure location and employ sufficient security procedures to ensure that each funding draft issued by Seller is authorized, authentic and complete. As requested by Buyer, Seller shall submit to Buyer an accounting of all blank drafts provided to Seller, certified by Seller's president or chief financial officer. Seller shall notify Buyer immediately if it discovers that any blank drafts are missing or otherwise not accounted for.
- (b) Completion of Funding Drafts. With respect to any Purchase Price to be paid by funding draft, Seller shall not complete a funding draft until after it has submitted a Asset Data Record for the related Transaction to Buyer that includes the number of the draft that is to be used for the Purchase Price. Seller is responsible for completing each funding draft clearly and accurately. Buyer shall not be obligated to accept any funding draft that contains incorrect information, is illegible or is not signed by at least two (2) authorized officers of Seller. If Seller makes an error in completing a funding draft, Seller shall void the draft and return the voided draft to Buyer with its accounting of blank drafts. Further, Seller shall notify Buyer immediately in order to confirm a new draft number with respect to the Purchase Price. Buyer shall not have an obligation to accept any funding draft if the draft number does not match that approved by Buyer in connection with a specific Transaction.
- (c) Acceptance of Funding Drafts. The payment of the Purchase Price by funding draft is subject to Buyer's acceptance of the funding draft following presentment to the payor bank. Buyer will accept a funding draft upon confirmation of Seller's compliance with the terms of this Agreement, including, without limitation, receipt by Buyer of the Asset Data Record prior to the date the funding draft was written, information contained on the funding draft is consistent with that previously provided to Buyer and the payee is an Approved Payee, as applicable. If Buyer rejects a funding draft for any reason, the Purchase Price for such Transaction may be paid by a new funding draft, provided all applicable procedures are followed, or by an alternate payment method.
- (d) Condition Precedent. As a condition precedent to Seller issuing a funding draft, Seller shall have delivered to Buyer:
- (i) a completed signature card, in form and substance satisfactory to the bank on which the funding drafts are drawn; and

- (ii) a certificate of Seller's corporate secretary, dated as of the current date, as to the incumbency and authenticity of the signatures of the officers of Seller authorized to sign funding drafts and the resolutions of the board of directors authorizing such officers to sign funding drafts on behalf of Seller.

ARTICLE 4  
REPURCHASE

4.1 **Repurchase Price.**

- (a) **Payment of Repurchase Price.** The Repurchase Price for each Purchased Mortgage Loan shall be payable in full and by wire transfer in accordance with Buyer's wire

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instructions in Exhibit J upon the earliest to occur of (i) the Repurchase Date of the Purchased Mortgage Loan, (ii) the occurrence of any Repurchase Acceleration Event with respect to such Transaction or (iii) the expiration or termination of this Agreement. Such obligation to repurchase exists without regard to any prior or intervening liquidation or foreclosure with respect to any Purchased Mortgage Loan. While it is anticipated that Seller will repurchase each Purchased Mortgage Loan on its related Repurchase Date, Seller shall repurchase any Purchased Mortgage Loan hereunder on demand without any pre-payment penalty or premium.

- (b) **Effect of Payment of Repurchase Price.** On the Repurchase Date (or such other date on which the Repurchase Price is paid by Seller), termination of the related Transaction will be effected by the repurchase by Seller or its designee of the Purchased Mortgage Loans and the simultaneous transfer of the Repurchase Price to an account of Buyer, or transfer of additional Mortgage Loan(s) (in each case as further described at Section 6.5), and all of Buyer's rights, title and interests therein shall then be conveyed to Seller or its designee. Seller is obligated to obtain the Mortgage Loan Documents from Custodian at Seller's expense on the Repurchase Date.

4.2 **Repurchase Acceleration Events.** The occurrence of any of the following events shall be a Repurchase Acceleration Event with respect to a Transaction:

- (a) Buyer in its sole and good faith discretion has determined that the Purchased Mortgage Loan is a Defective Mortgage Loan;
- (b) thirty (30) calendar days elapse from the date the Mortgage Loan Documents relating to the Purchased Mortgage Loan were delivered to an Approved Investor and such Approved Investor has not returned the Mortgage Loan Documents or purchased the Purchased Mortgage Loan, unless an extension is granted by Buyer, in its sole and good faith discretion;
- (c) ten (10) Business Days elapse from the date a Mortgage Loan Document relating to the Purchased Mortgage Loan was delivered to Seller for correction or completion, without being returned to Buyer or its designee;
- (d) Seller fails to deliver to Buyer the related Mortgage Loan Documents within the Wet Mortgage Loans Maximum Dwell Time or any Mortgage Loan Document delivered to Buyer, upon examination by Buyer, is found not to be in compliance with the requirements of this Agreement or the related Purchase Commitment and is not corrected within the Wet Mortgage Loans Maximum Dwell Time;
- (e) Regardless of whether a Purchased Mortgage Loan is a Defective Mortgage Loan, a foreclosure or similar type of proceeding is initiated with respect to the Purchased Mortgage Loan; or
- (f) the further sale of the Purchased Mortgage Loan by Seller.

4.3 **Reduction of Asset Value as Alternative Remedy.** In Buyer's sole and good faith discretion, in lieu of requiring full repayment of the Repurchase Price upon the occurrence of a Repurchase Acceleration Event, Buyer may elect to reduce the Asset Value of the related Purchased Mortgage Loan (to as low as zero) and accordingly require a full or partial repayment of such Repurchase Price or the delivery of other funds or collateral, which additional assets shall be "margin payments" or "settlement payments" as such terms are defined in Bankruptcy Code Section 741(5) and (8), respectively.

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4.4 **Designation as Noncompliant Mortgage Loan as Alternative Remedy.** In Buyer's sole and good faith discretion, in lieu of requiring full repayment of the Repurchase Price upon the occurrence of a Repurchase Acceleration Event, Buyer may elect to deem the related Purchased Mortgage Loan a Noncompliant Mortgage Loan, provided that (a) after such Purchased Mortgage Loan is deemed to be a Noncompliant Mortgage Loan, the aggregate original Asset Value of all Noncompliant Mortgage Loans does not exceed the Type Sublimit for Noncompliant Mortgage Loans; (b) the Asset Value of the Noncompliant Mortgage Loan is greater than the Repurchase Price or Seller provides additional Purchased Assets or repays part of the Repurchase Price as provided in Section 6.3 in each case as a "margin payment" as such term is defined in Bankruptcy Code Section 741(5); and (c) Seller delivers to Buyer all documentation relating to the Purchased Mortgage Loan reasonably requested by Buyer.

4.5 **Illegality or Impracticability.** Notwithstanding anything to the contrary in this Agreement, if Buyer determines in its sole and good faith discretion that any law, regulation, treaty or directive or any change therein or in the interpretation or application thereof, or any circumstance materially and adversely affecting the London interbank market, the repurchase market for mortgage loans or mortgage-backed securities or the source or cost of Buyer's funds, shall make it unlawful, impractical, or commercially unreasonable for Buyer to enter into or maintain Transactions as contemplated by this Agreement (a) the commitment of Buyer hereunder to enter into or to continue to maintain Transactions shall be cancelled and (b) the Repurchase Price for each Transaction then outstanding shall be immediately due and payable upon the earlier to occur of (i) the related scheduled Repurchase Date, (ii) within five (5) Business Days after the date required by any financial institution providing funds to Buyer, (iii) sale of the Purchased Mortgage Loan in accordance with the terms of this Agreement, (iv) the date as of which Buyer determines that such Transactions are

unlawful or (v) within five (5) Business Days after the date Buyer determines that the payment of the Repurchase Price on its scheduled Repurchase Date will be impractical or commercially unreasonable because of the severe nature of the material and adverse change affecting the London interbank market, the repurchase market for mortgage loans or mortgage-backed securities or the source or cost of Buyer's funds. For the avoidance of doubt, it is understood and agreed that a material and adverse change affecting the London interbank market, the repurchase market for mortgage loans or mortgage-backed securities or the source or cost of Buyer's funds shall not automatically require Seller to pay the Repurchase Price for any Transaction then outstanding before its related scheduled Repurchase Date unless Buyer has made an additional determination that such change is severe, in which case, Seller shall have the time specified in subsection (v) in which to pay the Repurchase Price for each such Transaction. Buyer shall not be liable to Seller for any costs, losses or damages arising from or relating from any actions taken by Buyer pursuant to this Section 4.5.

- 4.6 **Payments Pursuant to Sale to Approved Investors.** Seller shall direct each Approved Investor purchasing a Purchased Mortgage Loan to pay directly to Buyer, by wire transfer of immediately available funds, the full purchase price, without set-off, as set forth in the applicable Purchase Commitment. In addition, Seller shall provide Buyer with a Purchase Advice relating to such payment. Seller shall not direct the Approved Investor to pay to Buyer an amount less than the full purchase price set forth in the applicable Purchase Commitment or modify or otherwise change the wire instructions for payment of the purchase price provided to Approved Investor by Buyer. Buyer shall apply all amounts received for the account of Seller in accordance with Section 4.7 below and credit all amounts due Seller to the Over/Under Account in accordance with Section 3.5(b)(ii) above. Buyer may reject any amount received from an Approved Investor and not release the related Purchased Mortgage Loan if (a) Buyer does not receive a Purchase Advice in respect of any wire transfer, or (b) Buyer does not receive the full purchase price, without set-off, as set forth in the applicable Purchase Commitment or (c) the amount received is not sufficient to pay the Repurchase Price. Alternatively, in lieu of rejecting an amount received by Buyer from an Approved Investor, at Buyer's sole option and discretion, if the amount received from the Approved Investor does not equal or exceed the Repurchase Price, Buyer may accept the amount received from the Approved Investor and deduct the remaining amounts owed by Seller from the Over/Under Account or demand payment of such remaining amount from Seller.

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If Seller receives any funds intended for Buyer, Seller shall segregate and hold such funds in trust for Buyer and immediately pay to Buyer all such amounts by wire transfer of immediately available funds together with providing Buyer with a settlement statement for the transaction.

- 4.7 **Application of Payments from Seller or Approved Investors.** Unless Buyer determines otherwise in its sole and good faith discretion, payments made directly by Seller or an Approved Investor to Buyer shall be applied in the following order of priority:
- (a) first, in the exercise of Buyer's rights under Section 6.3(d) or Buyer' or its Affiliates' rights under Section 11.8.
  - (b) second, to all costs, expenses and fees incurred or charged by Buyer under this Agreement that are not related to a specific Transaction;
  - (c) third, to any amounts due and owing to Buyer pursuant to Section 6.3;
  - (d) fourth, to all costs, expenses and fees incurred or charged by Buyer under this Agreement that are related to the Transaction in connection with which the payment is made;
  - (e) fifth, to the price differential due and owing on the Purchase Price in connection with which the payment is made;
  - (f) sixth, to the price differentials on any Purchase Prices related to any other Transactions that are outstanding, due and owing, applied first to the Transaction with the earliest date;
  - (g) seventh, to the amount of the Repurchase Price for the Transaction in connection with which the payment is made; and
  - (h) eighth, to the amount of any Repurchase Prices related to any other Transactions that are outstanding, due and owing, applied first to the Transaction with the earliest date.

Buyer and Seller intend and agree that all such payments shall be "settlement payments" as such term is defined in Bankruptcy Code Section 741(8). After the settlement payments have been applied as set forth above, Buyer shall deposit in the Over/Under Account any amounts that remain.

- 4.8 **Method of Payment.** Except as otherwise specifically provided herein, all payments hereunder must be received by Buyer on the date when due and shall be made in United States dollars by wire transfer of immediately available funds to such account designated by Buyer from time to time. Whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day, and with respect to payments of the Purchase Price, the price differential thereon shall be payable at the Applicable Pricing Rate during such extension. All payments made by or on behalf of Seller with respect to any Transaction shall be applied to Seller's account in accordance with Section 3.5(b)(ii) and Section 4.7 above and shall be made in such amounts as may be necessary in order that all such payments after withholding for or on account of any present or future taxes, levies, imports, duties or other similar charges of whatsoever nature imposed by any government or any political subdivision or taxing authority hereof, other than any taxes on or measured by the net income of Buyer pursuant to the state, federal and local tax laws of the jurisdiction where Buyer's principal office or offices or lending office or offices are located, compensate Buyer for any additional cost or reduced amount receivable of making or maintaining Transactions as a result of such taxes, imports, duties or other charges. All payments to be made by or on behalf of Seller with respect to any Transaction shall be made without set-off, counterclaim or other defense.

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- 4.9 **Notification of Payment.** Seller shall provide Buyer not fewer than one (1) Business Day prior written notice if Seller or an Approved Investor intends to remit a payment to Buyer equal to or greater than ten million (\$10,000,000) dollars.

- 4.10 **Authorization to Debit.** In addition to any other authorizations to and rights of Buyer hereunder, Seller hereby expressly authorizes Buyer to debit any account maintained by Seller with any depository institution into which any funds related to the Purchased Mortgage Loans or related Purchased

Assets have been deposited, including without limitation, any operating, settlement or custodial account, for the deposited amounts related to the Purchased Mortgage Loans due Buyer hereunder. For the avoidance of doubt, the foregoing debit rights of Buyer shall not apply to Purchased Mortgage Loans which have been repurchased by Seller pursuant to Section 6.5.

- 4.11 **Book Account.** Buyer and Seller shall maintain an account on their respective books of all Transactions entered into between Buyer and Seller and for which the Repurchase Price has not yet been paid. As a courtesy to Seller, Buyer shall provide such information to Seller via the Internet or by telephone or facsimile, if Seller is unable to access the information via the Internet. Notwithstanding the foregoing, Seller shall be responsible for maintaining its own book account and records of Transactions entered into with Buyer, amounts due to Buyer in connection with such Transactions and for paying such amounts when due. Failure of Buyer to provide Seller with information regarding any Transaction shall not excuse Seller's timely performance of all obligations under this Agreement, including, without limitation, payment obligations under this Agreement.
- 4.12 **Full Recourse.** The obligations of Seller from time to time to pay the Repurchase Price, Margin Deficit payments, settlement payments and all other amounts due under this Agreement shall be full recourse obligations of Seller.

#### ARTICLE 5 FEES

- 5.1 **Payment of Fees.** Seller shall pay to Buyer those fees set forth in this Agreement or the Transactions Terms Letter when they become due and owing. Without limiting the generality of the foregoing, the initial Facility Fee shall be paid on or before the Effective Date and if this Agreement is renewed, thereafter on or before the anniversary of the Effective Date. Further, the Unused Facility Fee shall be paid quarterly in arrears, on the first day of the months of January, April, July and October, for each preceding calendar quarter. Buyer shall be entitled to withdraw from the Over/Under Account or retain from payments made by Seller or an Approved Investor, subject to Section 4.6, any fees permitted under this Agreement that are due and owing. If such amounts on deposit in the Over/Under Account or payments received in connection with a Transaction are not sufficient to pay Buyer all fees owed, Buyer shall notify Seller and Seller shall pay to Buyer, within one (1) Business Day, all unpaid fees.

#### ARTICLE 6 SECURITY; SERVICING; MARGIN ACCOUNT MAINTENANCE; CUSTODY OF MORTGAGE LOAN DOCUMENTS AND REPURCHASE TRANSACTIONS

- 6.1 **Precautionary Grant of Security Interest.** Although the parties intend that all Transactions hereunder be sales and purchases (other than for accounting and tax purposes) and not loans, and without prejudice to the provisions of Section 6.6 and the expressed intent of the parties, if any Transactions are deemed to be loans, as security for the performance of all of Seller's obligations hereunder, Seller hereby pledges, assigns and grants to Buyer a continuing first priority security interest in and lien upon the Purchased Assets, and Seller shall have all the rights and remedies of a "secured party" under the Uniform Commercial Code. Possession of any promissory notes, instruments or documents by the Custodian shall constitute possession on behalf of Buyer. At any time and from time to time, upon the written request of Buyer, and at the sole expense of Seller, Seller will promptly and duly execute and deliver, or will promptly cause to

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be executed and delivered, such further instruments and documents and take such further action as Buyer may reasonably request for the purpose of obtaining or preserving the full benefits of this Agreement and of the rights and powers herein granted, including, without limitation, the filing of any financing or continuation statements under the Uniform Commercial Code in effect in any jurisdiction with respect to the Purchased Assets and the liens created hereby. Seller also hereby authorizes Buyer to file any such financing or continuation statement in a manner consistent with this Agreement to the extent permitted by applicable law. A carbon, photographic or other reproduction of this Agreement shall be sufficient as a financing statement for filing in any jurisdiction. This Agreement shall constitute a security agreement.

- 6.2 **Servicing.**
- (a) **Servicer.** Other than as set forth in Section 6.2(m), Seller shall service, or shall cause the Servicer to service, the Purchased Mortgage Loans on behalf of Buyer as agent for Buyer for the period between the Purchase Date and the Repurchase Date of the Purchased Mortgage Loans.
- (b) **Servicing Agreement.** If there is a Servicer of the Purchased Mortgage Loans, Seller shall enter into a Servicing Agreement with the Servicer on behalf of Buyer, which such Servicing Agreement shall be on terms agreed to by Buyer, and which shall include, at a minimum, (i) a recognition by the Servicer of Buyer's interests and rights to the Purchased Mortgage Loans as provided under this Agreement; (ii) an obligation for the Servicer to service the Purchased Mortgage Loans consistent with the degree of skill and care that the Servicer customarily requires with respect to similar Mortgage Loans owned or managed by it but in no event no less than in accordance with Accepted Servicing Practices; (iii) an obligation to comply with all applicable federal, state and local laws and regulations; (iv) an obligation to maintain all state and federal licenses necessary for it to perform its servicing responsibilities; (v) an obligation not to impair the rights of Buyer in any Purchased Mortgage Loans or any payment thereto and (vi) an obligation to collect all sums payable in respect of the Purchased Mortgage Loans on behalf of Buyer, in trust, in segregated custodial accounts. Further, such Servicing Agreement shall contain express reporting requirements and other rights to allow Buyer to inspect the records of the Servicer with respect to the Purchased Mortgage Loans. Buyer may terminate the servicing of any Purchased Mortgage Loan with the then existing Servicer in accordance with either Section 6.2(f) or Section 6.2(m).
- (c) **Servicing Obligations of Seller.** To the extent Seller shall service any Purchased Mortgage Loan, Seller shall:
- (i) Service and administer the Purchased Mortgage Loans on behalf of Buyer in accordance with prudent mortgage loan servicing standards and procedures generally accepted in the mortgage banking industry and in accordance with the degree of care and servicing standards generally prevailing in the industry, including all applicable requirements of any Agency, and the requirements of any applicable Purchase Commitment and the Approved Investor, so that the eligibility of the Purchased Mortgage Loan for purchase under such Purchase Commitment is not voided or reduced by such servicing and administration;

- (ii) Subject to Subsection 6.2(f), and to the extent not otherwise held by the Custodian, Seller shall at all times maintain and safeguard the Mortgage Loan File for the Purchased Mortgage Loan, and in any event shall maintain and safeguard photocopies of the documents delivered to Buyer pursuant to Section 3.3, and accurate and complete records of its servicing of the Purchased Mortgage Loan; Seller's possession of such Mortgage Loan File is for the sole

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purpose of servicing such Purchased Mortgage Loan and such retention and possession by Seller is in a custodial capacity only;

- (iii) Buyer may, at any time during Seller's business hours on reasonable notice, examine and make copies of such documents and records, or require delivery of the originals of such documents and records to Buyer or its designee;
- (iv) At Buyer's request, Seller shall promptly deliver to Buyer reports regarding the status of any Purchased Mortgage Loan being serviced by it, which reports shall include, but shall not be limited to, a description of any default thereunder for more than thirty (30) days or such other circumstances that could cause a Material Adverse Change on such Purchased Mortgage Loan, Buyer's title to such Purchased Mortgage Loan or the collateral securing such Purchased Mortgage Loan; Seller is required to deliver such reports until the repurchase of the Purchased Mortgage Loan by Seller; and
- (v) Seller shall immediately notify Buyer if Seller becomes aware of any payment default that occurs under a Purchased Mortgage Loan.
- (d) Sale or Transfer of Servicing Rights. Seller shall not sell or transfer any rights to service a Purchased Mortgage Loan without the prior written consent of Buyer.
- (e) Release of Mortgage Loan Files. Seller shall release its custody of the contents of any Mortgage Loan File only in accordance with the written instructions of Buyer, except when such release is required as incidental to Seller's servicing of the Purchased Mortgage Loan, is required to complete the Purchase Commitment, or as required by law.
- (f) Right to Appoint Successor Servicer. Buyer reserves the right, upon the occurrence of an Event of Default, to appoint a successor servicer to service any Purchased Mortgage Loan (each a "**Successor Servicer**"). In the event of such an appointment, Seller shall perform all acts and take all action so that any part of the Mortgage Loan File and related servicing records held by Seller, together with all funds in the Custodial Account and other receipts relating to such Purchased Mortgage Loan, are promptly delivered to the Successor Servicer. Seller shall have no claim for lost Servicing Fees, lost profits or other damages if Buyer appoints a Successor Servicer hereunder.
- (g) Reserved.
- (h) Reserved.
- (i) Reserved.
- (j) Servicer Notice. Seller shall provide promptly to Buyer (i) a Servicer Notice addressed to and agreed to by the Servicer, advising the Servicer of such matters as Buyer may reasonably request, including, without limitation, recognition by the Servicer of Buyer's interest in such Purchased Mortgage Loans and the Servicer's agreement that upon receipt of notice of an Event of Default from Buyer, it will follow the instructions of Buyer with respect to the servicing of the Purchased Mortgage Loans.
- (k) Notification of Servicer Defaults. If Seller should discover that, for any reason whatsoever, any entity responsible to Seller by contract for managing or servicing any such Purchased Mortgage Loan has failed to perform fully Seller's obligations under this Agreement or any of the obligations of such entities with respect to the Purchased Mortgage Loans, Seller shall promptly notify Buyer.

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- (l) Termination. Upon the occurrence of any Event of Default or Potential Default or a material default by Servicer under the Servicing Agreement, Buyer shall have the right to immediately terminate the Servicer's right to service the Purchased Mortgage Loans without payment of any penalty or termination fee. Seller shall cooperate, or cause the Servicer to cooperate, in transferring the servicing of the Purchased Mortgage Loans to a successor servicer appointed by Buyer in its sole and good faith discretion.
- (m) Buyer's Right to Service. Buyer or its designee, at the Buyer's discretion, shall be entitled to service some or all of the Purchased Mortgage Loans following the occurrence of an Event of Default or Potential Default, and thus receive and collect all sums payable in respect of same. Upon Buyer's exercising of a valid right to service under this Agreement, and written notice to Seller that Buyer desires to service some or all of the Purchased Mortgage Loans, Seller shall promptly cooperate, or shall cause the Servicer to promptly cooperate, with all instructions of Buyer and do or accomplish all acts or things necessary to effect the transfer of the servicing to Buyer, at Seller's sole expense. Upon Buyer's servicing of the Purchased Mortgage Loans, (i) Buyer may, in its own name or in the name of Seller or otherwise, demand, sue for, collect or receive any money or property at any time payable or receivable on account of or in exchange for the Purchased Mortgage Loan(s), but shall be under no obligation to do so; (ii) Seller shall, if Buyer so requests, pay to Buyer all amounts received by Seller upon or in respect of the Purchased Mortgage Loan(s) or other Purchased Assets, advising Buyer as to the source of such funds; and (iii) all amounts so received and collected by Buyer shall be held by it as part of the Purchased Assets or applied against any outstanding Repurchase Price owed Buyer.

### 6.3 Margin Account Maintenance.

- (a) Asset Value. Buyer shall have the right to determine the Asset Value of each Purchased Mortgage Loan on a daily basis.

(b) Margin Deficit and Margin Call. If Buyer shall determine at any time that (A) the Asset Value of a Purchased Mortgage Loan subject to a Transaction is less than the related Repurchase Price or (B) the aggregate Asset Value of all Purchased Mortgage Loans for all such Transactions is less than the aggregate Repurchase Price (in either case, a “**Margin Deficit**”), then Buyer may, at its sole option and by notice to Seller (as such notice is more particularly set forth below, a “**Margin Call**”), require Seller to either:

- (i) transfer to Buyer or its designee cash or eligible Mortgage Loans approved by Buyer in its sole and good faith discretion (“**Additional Purchased Mortgage Loans**”) so that the individual Asset Value of the Purchased Mortgage Loan or the aggregate Asset Value of the Purchased Mortgage Loans, including any such cash or Additional Purchased Mortgage Loans, will not be less than the individual Repurchase Price for the Transaction or the aggregate Repurchase Price for all Transactions by more than fifty thousand (\$50,000) dollars; or
- (ii) pay one or more Repurchase Prices in an amount sufficient to reduce the outstanding Repurchase Prices to an amount at least fifty thousand (\$50,000) dollars greater than the Asset Value of the Purchased Mortgage Loan(s).

If Buyer delivers a Margin Call to Seller on or prior to 12:00 p.m.. (Pacific time) on any Business Day, then Seller shall transfer cash or Additional Purchased Mortgage Loans to Buyer no later than 5:00 p.m. (Pacific time) the next Business Day. If Buyer delivers a Margin Call to Seller after 12:00 p.m. (Pacific time) on any Business Day, Seller shall be required to transfer cash or Additional Purchased Mortgage Loans no later than 12:00 p.m. (Pacific time) on the 2nd subsequent Business Day. Notice of a Margin Call may be

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provided by Buyer to Seller electronically or in writing, such as via electronic mail or posting such notice on Buyer’s customer website(s).

- (c) Buyer’s Discretion. Buyer’s election not to make a Margin Call at any time there is a Margin Deficit shall not in any way limit or impair its right to make a Margin Call at any time a Margin Deficit exists.
- (d) Over/Under Account. Buyer may, in its sole and good faith discretion, withdraw from the Over/Under Account amounts equal to any Margin Deficit which is not otherwise satisfied by Seller within the time frames provided in this Section 6.3.
- (e) Credit to Repurchase Price. Any cash transferred to Buyer pursuant to this Section 6.3 shall be credited to the Repurchase Price of the related Transaction(s).

#### 6.4 Custody of Mortgage Loan Documents.

- (a) Custodial Arrangements. Buyer may appoint any Person to act as the Custodian to hold possession of the Mortgage Loan Documents (or a portion thereof) and to take actions at the direction of Buyer. Seller hereby consents to any and all such appointments and agrees to deliver the Mortgage Loan Documents to the Custodian upon the direction of Buyer. Seller further agrees that (i) the Custodian shall be exclusively the agent, bailee and/or custodian of Buyer; (ii) receipt of the Mortgage Loan Documents by the Custodian shall be constructive receipt by Buyer of the Mortgage Loan Documents; (iii) Seller shall not have and shall not attempt to exercise any degree of control over the Custodian or any Mortgage Loan Document held by the Custodian.
- (b) Temporary Withdrawal of Mortgage Loan Documents for Correction. Buyer may, in its sole and good faith discretion, permit Seller to withdraw, for a period not to exceed ten (10) Business Days, specified Mortgage Loan Documents for the purpose of correcting or completing such documents; provided, however, that unless otherwise agreed to by Buyer in writing, in no event shall the outstanding balance of the Transactions related to such Mortgage Loan Documents exceed five percent (5%) of the Aggregate Transaction Limit. Notwithstanding the foregoing, Buyer shall be deemed to be in possession of any Mortgage Loan Documents released pursuant to this Section 6.4(b), and the interest of Buyer in the related Purchased Mortgage Loan shall continued unimpaired until the Mortgage Loan Documents are returned to, or the proceeds thereof are received by, Buyer.
- (c) Delivery of Mortgage Loan Documents to Approved Investors. Provided that no Event of Default has occurred and is continuing, upon the written request of Seller, Buyer may, at its option and in its sole and good faith discretion, deliver to an Approved Investor set forth in the related Purchase Commitment, or its custodian, the Mortgage Loan Documents relating to a specified Purchased Mortgage Loan. All such Purchased Mortgage Loans and the related Mortgage Loan Documents shall at all times be covered by one or more Bailee Agreements, and Buyer or its designee will not release Mortgage Loan Documents to an Approved Investor unless Buyer or its Custodian has received a signed Bailee Agreement from the Approved Investor. Notwithstanding the foregoing, Buyer shall be deemed to be in possession of any Mortgage Loan Documents released pursuant to this Section 6.4(c), and the interest of Buyer in the related Purchased Mortgage Loan shall continue unimpaired until the Mortgage Loan Documents are returned to, or proceeds thereof are received by, Buyer. If the Approved Investor does not purchase a Purchased Mortgage Loan as contemplated by the related Purchase Commitment, Seller shall, upon the request of Buyer, assist Buyer in the recovery of any Mortgage Loan Documents not returned by the Approved Investor to Buyer.

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- (d) Delivery of Mortgage Loan Documents Relating to Mortgage-Backed Securities. Upon the written request of Seller, Buyer may, at its option and in its sole and good faith discretion, deliver to the certifying custodian the Mortgage Loan Documents relating to those Purchased Mortgage Loans that will be pooled to support a Mortgage-Backed Security. All such Purchased Mortgage Loans and the related Mortgage Loan Documents shall at all times be covered by a Bailee Agreement, and Buyer or its designee will not release Mortgage Loan Documents to a certifying custodian unless Buyer or its designee has received a signed tri-party custodial agreement from such custodian, in a form acceptable to Buyer. Buyer shall have no obligation to release any Mortgage Loan Documents to any certifying custodian that will not sign a custodial agreement acceptable to Buyer. Notwithstanding the foregoing, Buyer shall be deemed to be in possession of any Mortgage Loan Documents released pursuant to this Section 6.4(d), and the interest of Buyer in the related Purchased Mortgage Loan shall continue unimpaired until the Mortgage Loan Documents are returned to, or proceeds thereof are received by, Buyer. Seller shall pay for all costs of the certifying custodian and use its best efforts to ensure that the issuer delivers the Mortgage-Backed Securities to the certifying custodian.

6.5 **Release of Mortgage Loan Documents.** Provided that no Event of Default has occurred and is continuing, Seller may repurchase a Purchased Mortgage Loan by either:

- (a) paying, or causing an Approved Investor to pay, to Buyer, subject to Sections 4.6 and 4.7 above, the Repurchase Price; or
- (b) transferring to Buyer additional Mortgage Loan(s) satisfactory to Buyer and/or cash, in aggregate amounts sufficient to cover the amount by which the aggregate amount of Transactions then outstanding hereunder (plus accrued interest and accrued fees with respect thereto) exceeds the Asset Value of the existing Purchased Mortgage Loan(s), excluding the Purchased Mortgage Loan(s) to be released.

Upon receipt of the applicable amount, as set forth above, Buyer shall deliver or shall cause the Custodian to deliver the related Mortgage Loan Documents to Seller or Seller's designee, if such documents have not already been delivered pursuant to a Bailee Agreement. If such release gives rise to or perpetuates a Margin Deficit, Buyer shall notify Seller of the amount thereof and Seller shall thereupon satisfy the Margin Call in the manner specified in Section 6.3(b). Buyer shall have no obligation to release a repurchased Purchased Mortgage Loan or terminate its security interest in such Purchased Mortgage Loan until such Margin Call is satisfied.

6.6 **Sales Transactions; Repurchase Transactions.** For the avoidance of doubt, Buyer and Seller confirm that the Transactions contemplated by this Agreement are intended to be sales transactions and absolute assignments of the Purchased Mortgage Loans by Seller to Buyer, and not borrowings secured by the Purchased Mortgage Loans. Title to all Purchased Mortgage Loans and related Purchased Assets shall pass to Buyer upon payment of the Purchase Price. Accordingly, beginning on the Purchase Date and prior to the Repurchase Date, Buyer may in its sole discretion and without notice to Seller engage in repurchase transactions with respect to any or all of the Purchased Mortgage Loans or otherwise pledge, hypothecate, assign, transfer or convey any or all of the Purchased Mortgage Loans (such transactions, "**Repurchase Transactions**"), provided, however, that to the extent Buyer engages in any Repurchase Transactions, it shall have reacquired title to the Purchased Mortgage Loans prior to the Repurchase Date. Seller shall not be responsible for any additional obligations, costs or fees in connection with such Repurchase Transactions. Seller shall not take any action inconsistent with Buyer's ownership of a Purchased Mortgage Loan and shall not claim any legal, beneficial or other interest in such a Purchased Mortgage Loan other than the limited right and obligations to provide servicing of such Purchased Mortgage Loans where Buyer designates Seller as servicer as provided in Section 6.2.

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ARTICLE 7  
CONDITIONS PRECEDENT

7.1 **Initial Transaction.** As conditions precedent to Buyer's obligation to enter into the initial Transaction hereunder:

- (a) Seller shall have delivered to Buyer, in form and substance satisfactory to Buyer:
  - (i) this Agreement signed by Seller;
  - (ii) the Transactions Terms Letter signed by Seller;
  - (iii) an Electronic Tracking Agreement signed by Seller;
  - (iv) if required in the Transactions Terms Letter, a Guarantee(s) signed by each Guarantor(s);
  - (v) a Power of Attorney signed by Seller;
  - (vi) a certified copy of Seller's articles or certificate of incorporation and bylaws (or corresponding organizational documents if Seller is not a corporation) and, if required by Buyer, a certificate of good standing issued by the appropriate official in Seller's jurisdiction of organization, dated no less recently than one (1) month prior to the date hereof;
  - (vii) a certificate of Seller's corporate secretary, substantially in the form of Exhibit C hereto, dated as of the Effective Date, as to the incumbency and authenticity of the signatures of the officers of Seller executing the Principal Agreements and the resolutions of the board of directors of Seller (or its equivalent governing body or Person), substantially in the form of Exhibit D hereto;
  - (viii) independently audited financial statements of Seller (and its Subsidiaries, on a consolidated basis) for each of the two (2) fiscal years most recently ended (if available), containing a balance sheet and related statements of income, stockholders' equity and cash flows, all prepared in accordance with GAAP, applied on a basis consistent with prior periods, and otherwise acceptable to Buyer, together with an auditor's opinion that is unqualified or otherwise is consented to in writing by Buyer;
  - (ix) if more than one (1) year has passed since the close of the most recently ended fiscal year, interim financial statements of Seller covering the period from the first day of the current fiscal year to the last day of the most recently ended month;
  - (x) financial statements of each of the Guarantors, if any, signed by them, dated no less recently than three (3) months prior to the date of the initial Transaction;
  - (xi) Reserved. (there is no section 9.11)
  - (xii) if required by Buyer, a subordination agreement, in form and substance satisfactory to Buyer, executed by any Person which is, as of the Effective Date, a creditor of Seller, including each Guarantor (if required by the Transaction Terms Letter) and each Affiliate of Seller that is a creditor of Seller;
  - (xiii) an Acknowledgement of Confidentiality of Password Agreement;

- (xiv) the initial Facility Fee, if applicable;
  - (xv) a Servicer Notice, if applicable;
  - (xvi) if so requested by Buyer, the Control Agreement in a form reasonably satisfactory to Buyer;
  - (xvii) if required, a Servicing Agreement signed by the Servicer and Seller;
  - (xviii) a copy of Seller's underwriting guidelines for Mortgage Loans;
  - (xix) that certain letter agreement regarding Acquisition of Home Loan Center, Inc. by LendingTree, LLC, dated as of January 25, 2008 by and between Buyer, Seller and LendingTree, LLC; and
  - (xx) such other documents as Buyer or its counsel may reasonably request.
- (b) Buyer shall have determined that it has received satisfactory evidence that the appropriate Uniform Commercial Code Financial Statements (UCC-1) and/or such other instruments as may be necessary in order to create in favor of Buyer, a perfected first-priority security interest in the Purchased Mortgage Loans and related Purchased Assets should any of the Transactions be deemed to be loans, and same shall have been duly executed and appropriately filed or recorded in each office of each jurisdiction in which such filings and recordations are required to perfect such first-priority security interest.

7.2 **All Transactions.** As conditions precedent to Buyer considering whether to enter into any Transaction hereunder, including the initial Transaction:

- (a) Seller shall have delivered to Buyer, in form and substance satisfactory to Buyer and not later than the Transaction Request Deadline:
  - (i) a Asset Data Record for the Purchased Mortgage Loan, which Asset Data Record may be an individual record or part of a group report and shall be authenticated by Seller with the PIN or the handwritten signature of an authorized officer of Seller;
  - (ii) the Mortgage Loan Documents relating to the Purchased Mortgage Loan, unless such Purchased Mortgage Loan is a Wet Mortgage Loan;
  - (iii) a copy of a Purchase Commitment for the related Purchased Mortgage Loan, unless the Transactions Terms Letter states otherwise;
  - (iv) written evidence that all Transaction Requirements have been satisfied; and
  - (v) such other documents pertaining to the Transaction as Buyer may reasonably request, from time to time.
- (b) an amount equal to the Haircut plus the minimum required balance, as set forth in Section 3.5(a), shall be on deposit in the Over/Under Account;
- (c) Seller shall have paid all Facility Fees and Unused Facility Fees that are due;
- (d) Seller shall have designated an Approved Payee, if applicable, to whom such funds shall be delivered;

- (e) the representations and warranties of Seller set forth in Article 8 hereof shall be true and correct in all material respects as if made on and as of the date of each Transaction. At the request of Buyer, Buyer shall have received an officer's certificate signed by a responsible officer of Seller certifying as to the truth and accuracy of same;
- (f) if required by Buyer, Seller and each Guarantor (if required by the Transactions Terms Letter) shall have performed all agreements to be performed by them hereunder and under the Guarantee, respectively, and after giving effect to the requested Transaction, there shall exist no Event of Default or Potential Default hereunder;
- (g) no Potential Default, Event of Default or a Material and Adverse Change shall have occurred and be continuing; and
- (h) Seller shall have deposited all amounts required under Section 6.2(g) into the Custodial Account.

7.3 **Intercreditor Agreements.** If required by Buyer, within sixty (60) calendar days following the Effective Date, Seller shall deliver to Buyer an Intercreditor Agreement signed by each creditor that provides warehouse lines of credit, repurchase facilities or similar mortgage finance arrangements to Seller. By way of example but not limitation, if Seller has a mortgage financing agreement with a syndication of creditors or if an Affiliate of Seller is providing Seller a warehouse line of credit or mortgage financing, Buyer may require that such creditors execute an Intercreditor Agreement. If Seller fails to provide Buyer with any required Intercreditor Agreement within the time frame stated herein, Buyer may, in its sole and good faith discretion, determine that such failure adversely affects the creditworthiness of Seller and may modify the terms and conditions under which it will continue to enter into Transactions with Seller. Buyer shall not be liable to Seller for any costs, losses or damages arising from or relating to any changes made by Buyer to the terms and conditions under which it will continue to enter into Transactions with Seller. Further, Buyer agrees that it shall deliver to Seller a signed Intercreditor Agreement substantially in a form similar to Exhibit L, as requested by Seller if required by any other creditor that provides Seller warehouse lines of credit, repurchase facilities or similar mortgage finance arrangements.

**Satisfaction of Conditions.** The entering into of any Transaction prior to or without the fulfillment by Seller of all the conditions precedent thereto, whether or not known to Buyer, shall not constitute a waiver by Buyer of the requirements that all conditions, including the non-performed conditions, shall be required to be satisfied with respect to all Transactions. All conditions precedent hereunder are imposed solely and exclusively for the benefit of Buyer and may be freely waived or modified in whole or in part by Buyer. Any waiver or modification asserted by Seller to have been agreed by Buyer must be in writing. Buyer shall not be liable to Seller for any costs, losses or damages arising from Buyer's determination that Seller has not satisfactorily complied with any applicable condition precedent.

ARTICLE 8  
REPRESENTATIONS AND WARRANTIES

8.1 **Representations and Warranties Concerning Seller.** Seller represents and warrants to and covenants with Buyer that the following are true and correct as of the Effective Date through and until the date on which all obligations of Seller under this Agreement are fully satisfied:

- (a) **Due Formation and Good Standing.** Seller is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, has the full legal power and authority to own its property and to carry on its business as currently conducted and is duly qualified to do business and is in good standing in each jurisdiction in which the transaction of its business makes such qualification necessary.
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- (b) **Authorization.** The execution, delivery and performance by Seller of the Principal Agreements and all other documents and transactions contemplated thereby, are within Seller's corporate powers, have been duly authorized by all necessary corporate action and do not constitute or will not result in (i) a breach of any of the terms, conditions or provisions of Seller's articles or certificate of incorporation or bylaws (or corresponding organizational documents if Seller is not a corporation); (ii) a material breach of any legal restriction or any agreement or instrument to which Seller is now a party or by which it is bound; (iii) a material default or an acceleration under any of the foregoing; or (iv) the violation of any law, rule, regulation, order, judgment or decree to which Seller or its property is subject.
- (c) **Enforceable Obligation.** The Principal Agreements and all other documents contemplated thereby constitute legal, binding and valid obligations of Seller, enforceable in accordance with their respective terms, except as limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditor's rights.
- (d) **Approvals.** The execution and delivery of the Principal Agreements and all other documents contemplated thereby and the performance of Seller's obligations thereunder do not require any license, consent, approval, authorization or other action of any Person, including any state, federal, governmental or regulatory authority, or if required, such license, consent, approval, authorization or other action has been obtained prior to the Effective Date.
- (e) **Compliance with Laws.** Seller is not in violation of any provision of any applicable law, or of any judgment, award, rule, regulation, order, decree, writ or injunction of any court or public regulatory body or authority that will have a material adverse effect on the business, operations, assets or financial condition of Seller.
- (f) **Financial Condition.** All financial statements of Seller and each Guarantor (if indicated in the Transactions Terms Letter) delivered to Buyer fairly and accurately present the financial condition of the parties for whom such statements are submitted. The financial statements of Seller have been prepared in accordance with GAAP consistently applied throughout the periods involved, and there are no contingent liabilities not disclosed thereby that would adversely affect the financial condition of Seller. Since the close of the period covered by the latest financial statement delivered to Buyer with respect to Seller, there has been no material adverse change in the assets, liabilities or financial condition of Seller nor is Seller aware of any facts that, with or without notice or lapse of time or both, would or could result in any such material adverse change. No event has occurred, including, without limitation, any litigation or administrative proceedings, and no condition exists or, to the knowledge of Seller, is threatened, that (i) might render Seller unable to perform its obligations under the Principal Agreements and all other documents contemplated thereby; (ii) would constitute an Event of Default; or (iii) might adversely affect the financial condition of Seller or the validity, priority or enforceability of the Principal Agreements or any other documents contemplated thereby.
- (g) **Credit Facilities.** The only credit facilities, including repurchase agreements for mortgage loans and mortgage-backed securities, of Seller that are presently in effect and are secured by mortgage loans or provide for the purchase, repurchase or early funding of mortgage loan sales, are with Persons disclosed to Buyer at the time of application, or thereafter disclosed to and approved by Buyer, and, if required by Buyer, such Persons have executed and delivered an Intercreditor Agreement (or will execute and deliver an Intercreditor Agreement within sixty (60) days following the Effective Date in accordance with Section 7.3) or warehouse lenders that are Approved Payees.
- (h) **Title to Assets.** Seller has good, valid, insurable (in the case of real property) and marketable title to all of its properties and other assets, whether real or personal, tangible

or intangible, reflected on the financial statements delivered to Buyer with respect to Seller, except for such properties and other assets that have been disposed of in the ordinary course of business of Seller's mortgage banking business, and all such properties and other assets are free and clear of all liens except as disclosed in such financial statements.

- (i) **Litigation.** There are no actions, claims, suits, investigations, or proceedings pending, or to the knowledge of Seller, threatened or reasonably anticipated against or affecting Seller in any court or before or by any arbitrator, government commission, board, bureau or other administrative agency that, if adversely determined, may reasonably be expected to result in any material and adverse change in the business, operations, assets, licenses, qualifications or financial condition of Seller.

- (j) Payment of Taxes. To the best of its knowledge, Seller has filed all tax returns and reports required to be filed and has paid all taxes, assessments, fees and other governmental charges levied upon it or its property or income that are due and payable, including interest and penalties, or has provided adequate reserves for the payment thereof.
- (k) No Defaults. Seller is not in default under any indenture, mortgage, deed of trust, agreement or other instrument or contractual or legal obligation to which it is a party or by which it is bound.
- (i) ERISA. If applicable, Seller is in compliance in all material respects with the requirements of ERISA, and no Reportable Event has occurred under any Plan maintained by Seller.
- (m) Approved Mortgagee. If represented in Buyer's Credit Application or otherwise indicated by Seller to Buyer, Seller is an approved FHA, VA, Ginnie Mae, Fannie Mae and/or Freddie Mac seller, mortgagee and/or servicer and is in good standing with these agencies.
- (n) True and Complete Disclosure. Seller shall make full disclosure to Buyer of all information that could materially adversely affect the execution, delivery and performance by Seller of its obligations under the Principal Agreements. All information furnished to Buyer by or on behalf of Seller in connection with the Principal Agreements or any transaction contemplated thereby, including, without limitation, all information set forth in the Application, is true, accurate and complete in all material respects on the date furnished, and there has been no material adverse change in the condition, financial or otherwise, of Seller from the time such information was provided to Buyer.
- (o) Ownership; Priority of Liens. Seller owns all Mortgage Loans identified in the Transactions Terms Letter that are to become Purchased Mortgage Loans, and any Transaction shall convey all of Seller's right, title and interest in and to such Purchased Mortgage Loans and other Purchased Assets to Buyer. This Agreement shall also create in favor of Buyer, a valid, enforceable, perfected first priority lien and security interest in the Purchased Mortgage Loans and other Purchased Assets, prior to the rights of all third Persons and subject to no other liens.
- (p) Investment Company Act. Seller is not an "investment company" or a company controlled by an "investment company" within the meaning of the Investment Company Act of 1940, as amended.
- (q) Filing Jurisdictions; Relevant States. Schedule 1 sets forth all of the jurisdictions and filing offices in which a financing statement should be filed in order for Buyer to perfect its

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security interest in the Purchased Assets. Schedule 1 sets forth all of the states or other jurisdictions in which Seller originates Mortgage Loans in its own name or through brokers on the date of this Agreement.

- (r) Seller Solvent; Fraudulent Conveyance. As of the date hereof and immediately after giving effect to each Transaction, the fair value of the assets of Seller is greater than the fair value of the liabilities (including, without limitation, contingent liabilities if and to the extent required to be recorded as a liability on the financial statements of Seller in accordance with GAAP) of Seller and Seller is and will be solvent, is and will be able to pay its debts as they mature and does not and will not have an unreasonably small capital to engage in the business in which it is engaged and proposes to engage. Seller does not intend to incur, or believe that it has incurred, debts beyond its ability to pay such debts as they mature. Seller is not contemplating the commencement of insolvency, bankruptcy, liquidation or consolidation proceedings or the appointment of a receiver, liquidator, conservator, trustee or similar official in respect of Seller or any of its assets. Seller is not transferring any Mortgage Loans with any intent to hinder, delay or defraud any of its creditors.
- (s) Custodial Account. All funds required to be segregated and deposited into the Custodial Account have been so segregated and deposited.
- (t) Chief Executive Office. Seller's principal place of business is located at 163 Technology Drive, Irvine, CA 92618.

8.2 **Representations and Warranties Concerning Purchased Assets**. Seller represents and warrants to and covenants with Buyer that the following are true and correct with respect to each Purchased Mortgage Loan as of the related Purchase Date through and until the date on which such Purchased Mortgage Loan is repurchased by Seller:

- (a) Eligible Loan. The Mortgage Loan is a Conventional Conforming Mortgage Loan, Government Mortgage Loan, Jumbo Mortgage Loan, Super Jumbo Mortgage Loan, Expanded Criteria Mortgage Loan, Subprime Mortgage Loan, Closed-End Second Lien Mortgage Loan, HELOC Mortgage Loan or Nonperforming/Subperforming Mortgage Loan, as applicable. The Mortgage Loan is a legal, valid and binding obligation of the Mortgagor thereunder, enforceable in accordance with its terms and subject to no offset, defense or counterclaim, obligating Mortgagor to make the payments specified therein.
- (b) Purchase Commitment. Unless otherwise stated in the Transactions Terms Letter, the Mortgage Loan is covered by a Purchase Commitment that permits assignment thereof to Buyer, does not exceed the availability under such Purchase Commitment, conforms to the requirements and specifications set forth in such Purchase Commitment and the related regulations, rules, requirements and/or handbooks of the applicable Approved Investor and is eligible for sale to and insurance or guaranty by, respectively, the applicable Approved Investor and any applicable Insurer.
- (c) Asset Data Record. The information contained in the Asset Data Record is true, correct and complete in all material respects.
- (d) Origination and Servicing. The Mortgage Loan has been originated and serviced in material compliance with all industry standards, applicable Approved Investor and Insurer requirements and all applicable federal, state and local statutes, regulations and rules, including, without limitation, the Federal Truth-in-Lending Act of 1968, as amended, and Regulation Z thereunder, the Federal Fair Credit Reporting Act, the Federal Equal Credit Opportunity Act, the Federal Real Estate Settlement Procedures Act of 1974, as amended, and Regulation X thereunder, and all applicable usury, licensing, real property, consumer protection and other laws.

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- (e) Mortgage Loan Documents. The Mortgage Loan is evidenced by instruments acceptable to FHA, VA, Fannie Mae, Freddie Mac or the Approved Investor, as applicable, given the type of Mortgage Loan. The Mortgage Loan Documents and other mortgage loan documents have been duly executed and delivered by the Mortgagor and create valid and legally binding obligations of the Mortgagor, enforceable in accordance with their terms, except as may be limited by bankruptcy or other laws affecting the enforcement of creditor's rights generally, and there are no valid rights of rescission, set-offs, counterclaims or other defenses with respect thereto.
- (f) Lien Position. The Mortgage Loan is secured by a valid first priority lien on the Mortgaged Property under the laws of the state where the related mortgaged property is located; provided, however, that if the Mortgage Loan is a Closed-End Second Lien Mortgage Loan or HELOC Mortgage Loan, it is secured by a valid second lien on the Mortgaged Property.
- (g) No Future Advances. Except in the case of a HELOC Mortgage Loan where there may be future disbursements, the full original principal amount of each Mortgage Loan, net of any discounts, has been fully advanced or disbursed to the Mortgagor named therein, unless otherwise expressly agreed by the parties in writing. Seller shall retain the ability to enter into a Transaction in circumstances where funds shall be held in escrow after the Transaction date pending the completion of on-site improvements.
- (h) No Default. There is no default, breach, violation or event of acceleration existing under the Mortgage or the related Mortgage Note, and no event has occurred that, with the passage of time or with notice and the expiration of any grace or cure period, would constitute a default, breach, violation or event of acceleration. Seller has not waived any default, breach, violation or event of acceleration.
- (i) No Waiver. The terms of the Mortgage Loan have not been waived, impaired, changed or modified, except to the extent such amendment or modification has been disclosed to Buyer in writing and does not affect the salability of the Mortgage Loan pursuant to the applicable Purchase Commitment.
- (j) Taxes and Insurance. All taxes, governmental assessments, insurance premiums, water, sewer and similar municipal charges (if included in the applicable property tax billing statement), leasehold payments or ground rents that previously became due and owing have been paid or an escrow of funds has been established in an amount sufficient to pay for every such item that remains unpaid.
- (k) Private Mortgage Insurance. Each Conventional Conforming Mortgage Loan is insured by a policy of private mortgage insurance in the amount required by Fannie Mae or Freddie Mac, as applicable, and by an Insurer and all provisions of such private mortgage insurance policy have been and are being complied with, such policy is in full force and effect and all premiums due thereunder have been paid. There are no defenses, counterclaims or rights of setoff affecting the Conventional Conforming Mortgage Loan or affecting the validity or enforceability of any private mortgage insurance applicable to such Mortgage Loan.
- (l) Government Mortgage Loans. If the Mortgage Loan is represented by Seller to have, or to be eligible for, FHA insurance, such Mortgage Loan is insured, or eligible to be insured, pursuant to the National Housing Act. If the Mortgage Loan is represented by Seller to be guaranteed, or to be eligible for guarantee, by the VA, such Mortgage Loan is guaranteed, or eligible to be guaranteed, under the provisions of Chapter 37 of Title 38 of the United States Code. As to each FHA insurance certificate or each VA guaranty certificate, Seller has complied with applicable provisions of the insurance for guaranty contract and federal statutes and regulations, all premiums or other charges due in

connection with such insurance or guarantee have been paid, there has been no act or omission that would or may invalidate any such insurance or guaranty, and the insurance or guaranty is, or when issued, will be in full force and effect with respect to such Government Mortgage Loan. There are no defenses, counterclaims or rights of setoff affecting the Government Mortgage Loan or affecting the validity or enforceability of the FHA insurance or VA guaranty applicable to such Mortgage Loan.

- (m) Hazard Insurance. The Mortgage Loan is covered by a policy of hazard insurance, flood insurance and insurance against other insurable risks and hazards as required by the applicable Approved Investor and the agreements applicable to such Mortgage Loan, in amounts not less than the outstanding principal balance of the Mortgage Loan or such maximum lesser amount as permitted by the applicable Approved Investor and applicable law, all in a form usual and customary in the industry and that is in full force and effect, and all amounts required to have been paid under any such policy have been paid.
- (n) Title Insurance. A valid and enforceable title insurance policy has been issued or a commitment to issue such title insurance policy has been obtained for the Mortgage Loan in an amount not less than the original principal amount of such Mortgage Loan, which title insurance policy insures that the Mortgage relating thereto is a valid first lien or second lien, as applicable, on the property therein described and that the mortgaged property is free and clear of all encumbrances and liens having priority over the first lien of the Mortgage (unless the Mortgage Loan is a Closed-End Second Lien Mortgage Loan or HELOC Mortgage Loan) and otherwise in compliance with the requirements of the applicable Approved Investor. The title insurance company that issued the applicable Closing Protection Letter has also issued or has committed to issue the title insurance policy.
- (o) Assignment. The Assignment (i) has been duly authorized by all necessary corporate action by Seller, duly executed and delivered by Seller and is the legal, valid and binding obligation of Seller enforceable in accordance with its terms, and (ii) complies with all applicable laws including all applicable recording, filing and registration laws and regulations and is adequate and legally sufficient for the purpose intended to be accomplished thereby, including, without limitation, the assignment of all of the rights, powers and benefits of Seller as mortgagee.
- (p) No Fraud. No error, omission, misrepresentation, negligence, fraud or similar occurrence has taken place in any material respect with respect to the Mortgage Loan on the part of any Person, including, without limitation, the Mortgagor, any appraiser, any builder or developer or any other party involved in the origination of the Mortgage Loan or in the application of any insurance in relation to such Mortgage Loan.

8.3 **Continuing Representations and Warranties.** By submitting a Asset Data Record hereunder, Seller shall be deemed to have represented and warranted the truthfulness and completeness of the statements set forth in Sections 8.1 and 8.2.

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ARTICLE 9  
AFFIRMATIVE COVENANTS

Seller hereby covenants and agrees with Buyer that during the term of this Agreement and for so long as there remain any obligations of Seller to be paid or performed under the Principal Agreements:

9.1 **Financial Statements and Other Reports.**

- (a) **Interim Statements.** Seller shall deliver to Buyer financial statements of Seller, including statements of income and changes in shareholders' equity for the period from the beginning of such fiscal year to the end of such month or quarter, within the time frame required in the Transactions Terms Letter, and the related balance sheet as of the end of such month or quarter, within the time frame required in the Transactions Terms Letter, all in reasonable detail and certified by an officer of the Seller, subject, however, to year-end audit adjustments;
- (b) **Annual Statements.** Seller shall deliver to Buyer, within the time frame required in the Transactions Terms Letter, audited financial statements of Seller, including statements of income and changes in shareholders' equity for such fiscal year and the related balance sheet as at the end of such fiscal year, all in reasonable detail and accompanied by an opinion of a certified public accounting firm reasonably satisfactory to Buyer including a management representation letter signed by the chief financial officer of Seller stating that the financial statements fairly present the financial condition and results of operations of Seller as of the end of, and for, such year;
- (c) **Officer's Certificate.** Together with the financial statements required to be delivered pursuant to Sections 9.1(a) and (b), Seller shall deliver to Buyer an officer's certificate substantially in the form of Exhibit E hereto;
- (d) **Annual Statements of Guarantor.** If required by Buyer, Seller shall deliver to Buyer updated financial statements of each Guarantor (if required and identified in the Transaction Terms Letter), signed by each of them, within the time frame required in the Transactions Terms Letter, and, if no time frame is specified, within ninety (90) days following the end of each calendar year;
- (e) **Hedging Reports.** Upon request, Seller shall deliver to Buyer, or caused to be delivered to Buyer, a reconciliation report, in a form reasonably satisfactory to Buyer, including, without limitation, a report of all outstanding Transactions and their related Purchase Commitments, availability under unused Purchase Commitments and all amounts outstanding and available under other warehouse lines of credit, repurchase agreements and similar credit facilities; and
- (f) **Reports and Information Regarding Purchased Mortgage Loans.** Seller shall deliver to Buyer, with reasonable promptness, copies of any reports related to the Purchased Mortgage Loans and any other information in Seller's possession related to the Purchased Mortgage Loans as Buyer, in its sole and good faith discretion, may reasonably request.
- (g) **Other Reports.** As may be reasonably requested by Buyer from time to time, Seller shall deliver to Buyer, within thirty (30) days of filing or receipt (i) copies of all regular or periodic financial or other reports, if any, that Seller files with any governmental, regulatory or other agency and (ii) copies of all audits, examinations and reports concerning the operations of Seller from any Approved Investor, Insurer or licensing authority. Seller shall also deliver to Buyer, with reasonable promptness, such further information reasonably related to the business, operations, properties or financial

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condition of Seller, in such detail and at such times as Buyer, in its sole and good faith discretion, may request. Seller understands and agrees that all reports and information provided to Buyer by or relating to Seller may be disclosed to Buyer's Affiliates.

9.2 **Inspection of Properties and Books.** As required by applicable law and prudent mortgage banking practices, Seller shall keep accurate and complete records of the Purchased Mortgage Loans. At no cost to Buyer (except in the case where Buyer desires information from third parties), Seller shall permit authorized representatives of Buyer to discuss the business, operations, assets and financial condition of Seller with its officers and employees and to examine its books of account and make copies and/or extracts thereof, upon reasonable notice to Seller at Seller's place of business during normal business hours. Further, Seller will provide its accountants with a copy of this Agreement promptly after the execution hereof and will instruct its accountants to answer, at no cost to Buyer, any and all questions that any authorized representative of Buyer may address to them in reference to the financial condition or affairs of Seller. Seller may have its representatives in attendance at any meetings between the officers or other representatives of Buyer and Seller's accountants held in accordance with this authorization.

9.3 **Notice.** Seller shall give Buyer prompt written notice, in reasonable detail, of:

- (a) any and all material changes to the information set forth in the Application;
- (b) any action, suit or proceeding instituted by or against Seller in any federal or state court or before any commission or other regulatory body (federal, state or local, foreign or domestic and if permitted by such body), or any such action, suit or proceeding threatened in writing against Seller, in any case, if such action, suit or proceeding, or any such action, suit or proceeding threatened against Seller, involves a potential liability, on an individual or aggregate basis, that, if adversely determined, may reasonably be expected to result in any material and adverse change in the business, operations, assets, licenses, qualifications or financial condition of Seller.
- (c) the filing, recording or assessment of any valid federal, state or local tax lien against it, or any of its assets;

- (d) the occurrence of any Event of Default;
- (e) the actual or threatened suspension, revocation or termination of Seller's licensing or eligibility, in any respect, as an approved, licensed lender, seller, mortgagee or servicer that, if adversely determined, may reasonably be expected to result in any material and adverse change in the business, operations, assets, licenses, qualifications or financial condition of Seller.
- (f) the suspension, revocation or termination of any existing and material credit or investor relationship to facilitate the sale and/or origination of residential mortgage loans if such suspension revocation or termination is made by any party other than Seller;
- (g) any demand(s), whether on an individual or aggregate basis, by an Approved Investor or Insurer for (i) the repurchase of a mortgage loan(s) that, if adversely determined, may reasonably be expected to result in any material and adverse change in the business, operations, assets, licenses, qualifications or financial condition of Seller.
- (h) any potential or existing Purchased Mortgage Loan where a director, officer, shareholder, member, partner or owner of Seller is the Mortgagor or guarantor or where the related Mortgaged Property is being sold by a director, officer, shareholder, member, partner or owner of Seller;

- (i) any Purchased Mortgage Loan ceases to be an eligible Purchased Asset for the security of the Transactions;
- (j) any Approved Investor that threatens to set-off amounts owed by Seller to such Approved Investor against the purchase proceeds owed by the Approved Investor to Seller for the Purchased Mortgage Loans (excluding amounts owed by Seller to the Approved Investor which are directly related to the Purchase Mortgage Loans and which are allowed to be set-off by the Approved Investor pursuant to the Bailee Agreement);
- (k) any change in the Executive Management of Seller;
- (l) any other action, event or condition of any nature that could be reasonably expected to lead to or result in a material adverse effect on the business, operations, assets or financial condition of Seller or that, without notice or lapse of time or both, would constitute a default under any agreement, instrument or indenture to which Seller is a party or to which Seller, its properties or assets may be subject; and
- (m) any (i) change to the location of its principal place of business from that specified in Section 8.1(t), (ii) change in the name, identity or corporate structure (or the equivalent) or change in the location where Seller maintains its records with respect to the Purchased Assets, or (iii) reincorporation or reorganization of Seller under the laws of another jurisdiction.

9.4 **Additional Financing.** If Seller intends to enter into any financing or lending arrangements such as or similar to warehouse lines of credit or repurchase arrangements, Seller shall notify Buyer not fewer than fifteen (15) Business Days prior to the execution of such arrangement.

9.5 **Servicing of Mortgage Loans.** Subject to Section 6.2 above, Seller shall service all Purchased Mortgage Loans at Seller's expense, but in consideration of the Servicing Fee, and without charge of any kind to Buyer. Seller may delegate its obligations hereunder to service the Purchased Mortgage Loans (subject to Section 6.2) to an independent servicer provided that such independent servicer and the related Servicing Agreement has been approved by Buyer and such independent servicer has executed a Servicing Agreement with Buyer. The failure of Seller to obtain the prior approval of Buyer regarding the delegation of its servicing obligations to an independent servicer and/or the failure of the independent servicer to execute and return to Buyer a Servicing Agreement shall be considered an Event of Default hereunder. In any event, Seller or its delegate shall service such Purchased Mortgage Loans with the degree of care and in accordance with the servicing standards generally prevailing in the industry, including those required by Fannie Mae, Freddie Mac and Ginnie Mae.

9.6 **Evidence of Purchased Assets.** Seller shall indicate on its computer records that each Purchased Mortgage Loan has been included in the Purchased Assets and, at the request of Buyer, place on each of its written records pertaining to the Purchased Mortgage Loans a legend, in form and content satisfactory to Buyer, indicating that such Purchased Mortgage Loan has been sold to Buyer.

9.7 **Protection of Purchased Mortgage Loans.** Seller shall allow Buyer (a) to inspect any Mortgaged Property relating to a Purchased Mortgage Loan; (b) to appear in or intervene in any proceeding or matter affecting any Purchased Mortgage Loan or other Purchased Assets or the value thereof; (c) to initiate, commence, appear in and defend any foreclosure, action, bankruptcy or proceeding which could adversely affect Buyer's ownership or security of the Purchased Assets or the value thereof, or the rights and powers of Buyer; (d) to contest by litigation or otherwise any lien asserted against the Purchased Mortgage Loans or other Purchased Assets or against the related Mortgaged Property, the improvements, or the personal property identified therein; and/or (e) to make payments on account of such encumbrances, charges, or liens and to service any Purchased Mortgage Loan and take any action it may deem appropriate to collect

any Purchased Assets or any part thereof or to enforce any rights with respect thereto. All reasonable costs and expenses, including reasonable attorneys' fees (including, but not limited to those incurred on appeal), that Buyer may incur with respect to any of the foregoing and any expenditures it may make, as necessary, to protect or preserve the Purchased Assets or the rights of Buyer, shall be for the account of Seller. Seller shall repay the same to Buyer upon demand with interest, at the Default Rate, from the date any such expenditure shall have been made until it is repaid.

9.8 **Further Assurances.** Seller shall, at its expense, promptly procure, execute and deliver to Buyer, upon request, all such other and further documents, agreements and instruments in compliance with or accomplishment of the covenants and agreements of Seller in this Agreement.

- 9.9 **Fidelity Bonds and Insurance.** Seller shall maintain an insurance policy, in a form and substance satisfactory to Buyer, covering against loss or damage relating to or resulting from any breach of fidelity by Seller, or any officer, director, employee or agent of Seller, any loss or destruction of documents (whether written or electronic), fraud, theft, misappropriation and errors and omissions. This policy shall name Buyer as insured and loss payee and provide coverage in an amount equal to the greater of one million dollars (\$1,000,000) or that required by Fannie Mae's Selling Guide, whichever is greater. The deductible on such insurance policy shall not exceed one hundred fifty thousand dollars (\$150,000). Following approval by Buyer of a specific insurance policy, Seller shall not amend, cancel, suspend or otherwise change such policy without the prior written consent of Buyer.
- 9.10 **Wet Mortgage Loans.** In connection with the funding of each Wet Mortgage Loan, Seller shall provide to the applicable Closing Agent, in addition to the Irrevocable Closing Instructions, final closing instructions, which shall, without limitation, make reference to the Irrevocable Closing Instructions and stipulate the title insurance company that will be issuing the applicable title insurance policy and Closing Protection Letter; provided, however, that Seller shall not use these final closing instructions to modify or attempt to modify the terms of the Irrevocable Closing Instructions unless such modifications are agreed to in advance and in writing by Buyer. Seller shall not otherwise modify or attempt to modify the terms of the Irrevocable Closing Instructions without Buyer's prior written approval. If the Closing Agent is not a title insurance company, Seller shall also (a) confirm that the closing is covered by a blanket Closing Protection Letter issued to Buyer by the title insurance company stipulated in the final closing instructions; or (b) provide to Buyer (1) a Closing Protection Letter covering the closing issued to Seller by the title insurance company stipulated in the final closing instructions and (2) an Assignment of Closing Protection Letter relating to the above referenced Closing Protection Letter naming Buyer as the assignee.

ARTICLE 10  
NEGATIVE COVENANTS

Seller hereby covenants and agrees with Buyer that during the term of this Agreement and for so long as there remain any obligations of Seller to be paid or performed under this Agreement, Seller shall comply with the following:

- 10.1 **Liabilities and Advances.** Seller Shall not, either directly or indirectly, without the prior written consent of Buyer, lend money or credit or make any advances to any Person or acquire any stock, obligations or securities of, or any interest in, or make any capital contribution to any other Person in an amount greater than ten percent (10%) of Seller's Tangible Net Worth, except for Mortgage Loans or other loans extended in the ordinary course of Seller's mortgage banking business. Seller shall not, either directly or indirectly, without the prior written consent of Buyer, assume, guarantee, endorse, or otherwise become liable for the obligation of any Person except by endorsement of negotiable instruments for deposit or collection in the ordinary course of Seller's mortgage banking business.

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- 10.2 **Debt and Subordinated Debt.** Seller shall not, either directly or indirectly, without the prior written consent of Buyer, pay any Debt or Subordinated Debt if such payment shall cause a Potential Default or Event of Default. Further, if a Potential Default or an Event of Default shall have occurred and for as long as such is occurring, Seller shall not, either directly or indirectly, without the prior written consent of Buyer, make any payment of any kind thereafter on such Debt or Subordinated Debt until all obligations of Seller hereunder have been paid and performed in full.
- 10.3 **Loss of Eligibility.** Seller shall not, either directly or indirectly, without the prior written consent of Buyer, take, or fail to take, any action that would cause Seller to lose all or any part of its status as an eligible lender, seller, mortgagee or servicer or willfully terminate its status as an eligible lender, seller, mortgagee or servicer without forty-five (45) days prior written notice to Buyer.
- 10.4 **Financial Covenants and Ratios.** Seller shall at all times comply with any financial covenants and/or financial ratios set forth in the Transactions Terms Letter.
- 10.5 **Loans to Officers, Employees and Shareholders.** Except those made in the normal course of Seller's mortgage banking business, Seller shall not, either directly or indirectly, without the prior written consent of Buyer, make any personal loans or advances to any officers, employees, shareholders, members, partners or owners of Seller in an aggregate amount exceeding ten percent (10%) of Seller's Tangible Net Worth; provided, however, that Seller shall be entitled to make a personal loan or advance to a majority shareholder, member, partner or owner of Seller without the prior written consent of Buyer provided that (i) a Potential Default or an Event of Default is not existing and will not occur as a result thereof, (ii) such Person is also a Guarantor and (iii) such loan or advance is clearly reflected on Seller's financial reports provided to Buyer.
- 10.6 **Liens on Purchased Mortgage Loans and Purchased Assets; Liens on Other Assets.** Seller acknowledges that with each Transaction it shall have sold the Purchased Mortgage Loans and related Purchased Assets and shall have granted to Buyer a first priority security interest in such assets in the event such Transaction is deemed a loan. Accordingly, Seller shall not create, incur, assume or suffer to exist any lien upon the Purchased Mortgage Loans or the Purchased Assets, other than as granted to Buyer herein. Further, Seller shall not, or create, incur, assume or suffer any lien upon any of its other property and assets without the prior written consent of Buyer; provided, however, that Seller may, without the prior written consent of Buyer, and provided that an Event of Default is not existing or will not occur as a result thereof, incur, assume or suffer to exist liens on its other property and assets for the following purposes (a) liens for taxes not yet due or taxes being contested in good faith and by appropriate proceedings for which adequate reserves have been established; (b) liens in favor of Fannie Mae, Ginnie Mae or Freddie Mac on the right of Seller to service Mortgage Loans sold to the Agencies; or (c) liens incurred by Seller in the ordinary course of Seller's mortgage banking business.
- 10.7 **Intentionally Left Blank.**
- 10.8 **Consolidation, Merger, Sale of Assets and Change of Control.** Seller shall not (a) wind up, liquidate or dissolve its affairs; (b) enter into any transaction of merger or consolidation with any Person; (c) convey, sell, lease or otherwise dispose of, or agree to do any of the foregoing at any future time, all or any part of its property or assets, or (d) allow a Change of Control to occur with respect to Seller, without prior written consent of Buyer; provided, however, that Seller may, without the prior written consent of Buyer, and provided that a Potential Default or an Event of Default is not existing and will not occur as a result thereof: (i) merge or consolidate with any Person if Seller is the surviving and controlling entity and (ii) convey, sell or dispose of its property or assets in the ordinary course of Seller's mortgage banking business, including without limitation equipment that is uneconomic or obsolete and acquire Mortgage Loans for resale and sell Mortgage Loans; provided however, in no event shall the conveyance, sale, lease or disposition of ten percent (10%) or more of the Seller's property or assets be considered in the ordinary course of business.

- 10.9 **Payment of Dividends and Retirement of Stock.** Seller shall not, without the prior written consent of Buyer, (a) declare or pay any dividends upon its shares of stock now or hereafter outstanding, except dividends payable in the capital stock of Seller, or make any distribution of assets to its shareholders, whether in cash, property or securities, or (b) acquire, purchase, redeem or retire shares of its capital stock now or hereafter outstanding for value; provided, however, that during any fiscal year Seller may, without the prior written consent of Buyer, and provided that a Potential Default or an Event of Default is not existing and will not occur as a result thereof, pay dividends to its shareholders, members, partners or owners provided that such dividends do not exceed, whether on an individual or aggregate basis, one hundred percent (100%) of Seller's net income for the current fiscal year.
- 10.10 **Purchased Assets.** Seller shall not (a) except as expressly provided for in this Agreement, attempt to resell, reassign, retransfer or otherwise dispose of, or grant any option with respect to, or pledge or otherwise encumber any of the Purchased Mortgage Loans or other Purchased Assets or any interest therein, or without prior written consent of Buyer (b) amend or modify or waive any of the terms and conditions of (unless required by law), or settle or compromise any claim in respect of, any Purchased Mortgage Loan.
- 10.11 **Secondary Marketing, Underwriting, Third Party Origination and Interest Rate Risk Management Practices.** Seller shall not, without the prior written approval of Buyer, change in any material respect any secondary marketing, underwriting, third party origination and interest rate risk management practices of Seller that exist as of the Effective Date. By way of example but not limitation, any change to Seller's hedging strategy, any change to add a new line of Mortgage Loan products not contemplated by this Agreement, or any change to add third party origination shall be considered material changes subject to the prior written approval of Buyer. The fact that Seller may from time to time disclose to Buyer in writing proposed changes in such practices after the date hereof shall not be deemed Buyer's consent to or written approval thereof unless Buyer has indicated written approval of such changes. It shall be deemed an Event of Default hereunder if Seller changes any of the foregoing practices without having obtained such prior written approval from Buyer.

ARTICLE 11  
DEFAULTS AND REMEDIES

- 11.1 **Events of Default.** The occurrence of any of the following conditions or events shall be an Event of Default:
- (a) failure of Seller to pay any amount due under the Principal Agreements within two (2) Business Days following the applicable due date;
- (b) a material breach or default by Seller which remains uncured within any applicable cure period with respect to any term of any indebtedness or of any loan agreement, note, mortgage, security agreement, indenture, guaranty or similar agreement to which Seller is a party or by which it is bound; for purposes of this subsection, Buyer and Seller agree that a breach or default shall be deemed material if the effect of such breach or default is to cause, or to permit any holder thereof to cause, indebtedness of Seller in the aggregate amount of ten percent (10%) of Seller's Tangible Net Worth or more to become or be declared due prior to its stated maturity, it being understood, however, that this does not create a minimum threshold for materiality and the materiality of any breach or default shall depend on the facts and circumstances related thereto;
- (c) the aggregate original Asset Value of those Purchased Mortgage Loans that are deemed to be Noncompliant Mortgage Loans is greater than or equal to the Type Sublimit for Noncompliant Mortgage Loans for more than two (2) consecutive Business Days;
- (d) the aggregate original Asset Value of those Purchased Mortgage Loans that are deemed to be Defective Mortgage Loans is greater than or equal to ten percent (10%) of the outstanding Transactions for more than two (2) consecutive Business Days;
- (e) any of Seller's representations or warranties made in Section 8.1 or in any statement or certificate at any time given by Seller in writing pursuant hereto or in connection herewith shall be false in any material respect on the date as of which made and such occurrence shall not have been remedied within three (3) Business Days after receipt of notice from Buyer of such occurrence;
- (f) the failure of Seller to perform, comply with or observe any material term, covenant or agreement applicable to Seller as contained in Articles 9 and 10 of this Agreement;
- (g) the failure of Seller to perform, comply with or observe any other material term, covenant or agreement applicable to Seller as contained in this Agreement and such occurrence shall not have been remedied within thirty (30) days after receipt of notice from Buyer of such occurrence;
- (h) an Insolvency Event shall have occurred with respect to Seller or any Guarantor; provided, however, that if there are two or more Guarantors (if required by the Transaction Terms Letter) and an Insolvency Event occurs with respect to one or more of them, Buyer shall reasonably consider the aggregate net worth of those Guarantor(s) for which an Insolvency Event has not occurred and reasonably determine whether such aggregate net worth is sufficient for Buyer to continue to enter into Transactions with Seller hereunder, and in the event Buyer makes such a determination, the Insolvency Event with respect to the Guarantor(s) shall not be considered an Event of Default under this subsection;
- (i) one or more judgments or decrees shall be entered against Seller involving a liability of five hundred thousand (\$500,000) dollars or more, and all such judgments or decrees shall not have been vacated, discharged, stayed or bonded pending appeal within sixty (60) days after entry thereof;
- (j) any Plan maintained by Seller or any subsidiary of Seller shall be terminated within the meaning of Title IV of ERISA or a trustee shall be appointed by an appropriate United States District Court to administer any Plan, or the Pension Benefit Guaranty Corporation (or any

successor thereto) shall institute proceedings to terminate any Plan or to appoint a trustee to administer any Plan if as of the date thereof Seller's liability or any such subsidiary's liability (after giving effect to the tax consequences thereof) to the Pension Benefit Guaranty Corporation (or any successor thereto) for unfunded guaranteed vested benefits under the Plan exceeds the then current value of assets accumulated in such Plan by more than fifty thousand (\$50,000) dollars (or in the case of a termination involving Seller as a "substantial employer" (as defined in Section 4001(a)(2) of ERISA) the withdrawing employer's proportionate share of such excess shall exceed such amount);

- (k) Seller as employer under a Plan that is a multiemployer plan shall have made a complete or partial withdrawal from such Plan and the plan sponsor of such Plan shall have notified such withdrawing employer that such employer has incurred a withdrawal liability in an annual amount exceeding fifty thousand (\$50,000) dollars;
- (l) Seller shall purport to disavow its obligations hereunder or shall contest the validity or enforceability of the Principal Agreements or Buyer's interest in any Purchased Mortgage Loan or other Purchased Assets;

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- (m) if applicable, the death of any Guarantor(s) who is an individual shall occur;
- (n) a Material and Adverse Change shall occur;
- (o) a change in any Key Personnel as set forth in the Transactions Terms Letter shall occur, if applicable;
- (p) any Principal Agreement shall for whatever reason (including an event of default thereunder) be terminated, without the consent of Buyer (other than, with respect to the Custodial Agreement, due to the resignation of the Custodian for reasons other than a breach by Seller of the Custodial Agreement), or this Agreement shall for any reason cease to create a valid, first priority security interest or ownership interest upon transfer in any of the Purchased Assets;
- (q) a breach of any of Seller's or Servicer's servicing obligations, including, but not limited to, its failure to deposit any funds required to be deposited under Section 6.2(g) into the Custodial Account; or
- (r) if Seller is a member of MERS, Seller's membership in MERS is terminated for any reason.

With respect to any Event of Default which requires a determination to be made as to whether such Event of Default has occurred, such determination shall be made in Buyer's sole and good faith discretion and Seller hereby agrees to be bound by and comply with any such determination by Buyer.

11.2 **Remedies.** Subject to Section 11.2(f) below, upon the occurrence of an Event of Default, Buyer may, by notice to Seller, declare all or any portion of the Repurchase Prices related to the outstanding Transactions to be due and payable whereupon the same shall become due and payable, and the obligation of Buyer to enter into Transactions shall thereupon terminate. Further, it is understood and agreed that upon the occurrence of an Event of Default, Seller shall strictly comply with the negative covenants contained in Article 10 hereunder and in no event shall Seller declare and pay any dividends, incur additional Debt or Subordinated Debt, make payments on existing Debt or Subordinated Debt or otherwise distribute or transfer any of Seller's property and assets to any Person without the prior written consent of Buyer; provided, however, that for as long as such Event of Default is occurring, Seller may incur and pay trade Debt that is, or was, incurred in the ordinary course of business of Seller's mortgage banking business. Upon the occurrence of any Event of Default, Buyer may also:

- (a) enter the office(s) of Seller and take possession of any of the Purchased Assets including any records that pertain to the Purchased Assets;
- (b) communicate with and notify Mortgagors of the Purchased Mortgage Loans and obligors under other Purchased Assets or on any portion thereof, whether such communications and notifications are in verbal, written or electronic form, including, without limitation, communications and notifications that the Purchased Assets have been assigned to Buyer and that all payments thereon are to be made directly to Buyer or its designee; settle compromise, or release, in whole or in part, any amounts owing on the Purchased Mortgage Loans or other Purchased Assets or any portion of the Purchased Assets, on terms acceptable to Buyer; enforce payment and prosecute any action or proceeding with respect to any and all Purchased Assets; and where any Purchased Mortgage Loans or other Purchased Assets is in default, foreclose upon and enforce security interests in, such Purchased Assets by any available judicial procedure or without judicial process and sell property acquired as a result of any such foreclosure;

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- (c) collect payments from Mortgagors and/or assume servicing of, or contract with a third party to service, any or all Purchased Mortgage Loans requiring servicing and/or perform any obligations required in connection with Purchase Commitments, such third party's fees to be paid by Seller. In connection with collecting payments from Mortgagors and/or assuming servicing of any or all Purchased Mortgage Loans, Buyer may take possession of and open any mail addressed to Seller, remove, collect and apply all payments for Seller, sign Seller's name to any receipts, checks, notes, agreements or other instruments or letters or appoint an agent to exercise and perform any of these rights. If Buyer so requests, Seller shall promptly forward to Buyer or its designee, all further mail and all "trailing" documents, such as title insurance policies, deeds of trust, and other documents, and all loan payment histories, both in paper and electronic format, in each case, as same relate to the Purchased Mortgage Loans;
- (d) proceed against Seller under this Agreement or against any Guarantor(s) under their respective Guaranty (if contemplated by the Transaction Terms Letter), or both; and/or
- (e) pursue any rights and/or remedies available at law or in equity against Seller or any Guarantor(s) (if contemplated by the Transaction Terms Letter), or both.

(f) if the Event of Default is the occurrence of a Material and Adverse Change with respect to general market circumstances or conditions, including, without limitation, if any law, regulation, treaty or directive or any change therein or in the interpretation or application thereof, or any circumstance affecting the London interbank market or the repurchase market for mortgage loans or mortgage-backed securities, the Repurchase Prices related to the then outstanding Transactions shall be due and payable on their respective scheduled Repurchase Date unless Buyer has made an additional determination that such change is severe, in which case, Buyer may declare all or any portion of the Repurchase Prices related to the then outstanding Transactions to be immediately due and payable.

11.3 **Treatment of Custodial Account.** During the existence of an Event of Default, notwithstanding any other provision of this Agreement, Seller shall have no right to withdraw or release any funds in the Custodial Account to itself or for its benefit to which it is not entitled under this Agreement, nor shall it have any right to set-off any amount owed to it by Buyer against funds held by it for Buyer in the Custodial Account. During the existence of an Event of Default, Seller shall promptly remit to or at the direction of Buyer all funds related to the Purchased Mortgage Loans in the Custodial Account.

11.4 **Sale of Purchased Assets.** Following an Event of Default, and after giving Seller five (5) business days in which to purchase for itself the Purchased Assets, Buyer may securitize or otherwise sell the Purchased Assets with no obligation to reacquire title as provided in Section 6.6 and Buyer shall incur no liability as a result of such transaction. For the avoidance of doubt, Buyer may sell the Purchased Assets as part of a pool comprised of, all or part of, the Purchased Assets and other mortgage loans owned by Buyer; in such instance, the value of the Purchased Assets shall be determined on a pro rata basis. Seller hereby waives any claims it may have against Buyer arising by reason of the fact that the price at which the Purchased Assets may have been sold at such private sale was less than the price which might have been obtained at a public sale or was less than the aggregate Repurchase Price amount of the outstanding Transactions, even if Buyer accepts the first offer received and does not offer the Purchased Assets, or any part thereof, to more than one offeree.

11.5 **No Obligation to Pursue Remedy.** Seller waives any right to require Buyer to (a) proceed against any Person, (b) proceed against or exhaust all or any of the Purchased Assets or pursue its rights and remedies as against the Purchased Assets in any particular order, or (c) pursue any other remedy in its power. Buyer shall not be required to take any steps necessary to preserve any rights of Seller against holders of mortgages prior in lien to the lien of any Purchased

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Mortgage Loan included in the Purchased Assets or to preserve rights against prior parties. No failure on the part of Buyer to exercise, and no delay in exercising, any right, power or remedy provided hereunder, at law or in equity shall operate as a waiver thereof; nor shall any single or partial exercise by Buyer of any right, power or remedy provided hereunder, at law or in equity preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies herein provided are cumulative and are not exclusive of any remedies provided at law or in equity.

11.6 **Reimbursement of Costs and Expenses.** Buyer may, but shall not be obligated to, advance any sums or do any act or thing necessary to uphold and enforce the lien and priority of, or the security intended to be afforded by, any Purchased Mortgage Loan, including, without limitation, payment of delinquent taxes or assessments and insurance premiums. All advances, charges, reasonable costs and expenses, including reasonable attorneys' fees and disbursements, incurred or paid by Buyer in exercising any right, power or remedy conferred by this Agreement, or in the enforcement hereof, together with interest thereon, at the Default Rate, from the time of payment until repaid, shall become a part of the Repurchase Price.

11.7 **Application of Proceeds.** The proceeds of any sale or other enforcement of Buyer's interest in all or any part of the Purchased Assets shall be applied by Buyer:

- (a) first, to the payment of the costs and expenses of such sale or enforcement, including reasonable compensation to Buyer's agents and counsel, and all expenses, liabilities and advances made or incurred by or on behalf of Buyer in connection therewith;
- (b) second, to the payment of any other amounts due under this Agreement other than the aggregate Repurchase Price;
- (c) third, to the payment of the aggregate Repurchase Price;
- (d) fourth, to the payment to Seller, or to its successors or assigns, or as a court of competent jurisdiction may direct, of any surplus then remaining from such proceeds. If the proceeds of any such sale are insufficient to cover the costs and expenses of such sale, as aforesaid, and the payment in full of the aggregate Repurchase Price and all other amounts due hereunder, Seller shall remain liable for any deficiency.

11.8 **Rights of Set-Off.** Buyer shall have the following rights of set-off:

- (a) If Seller shall default in the payment or performance of any of its obligations under this Agreement, Buyer shall have the right, at any time, and from time to time, without notice, to set-off claims and to appropriate or apply any and all deposits of money or property or any other indebtedness at any time held or owing by Buyer to or for the credit of the account of Seller against and on account of the obligations and liabilities of Seller under this Agreement, irrespective of whether or not Buyer shall have made any demand hereunder and whether or not said obligations and liabilities shall have become due; provided, however, that the aforesaid right to set-off shall not apply to any deposits of escrow monies being held on behalf of the Mortgagors related to the Purchased Mortgage Loans or other third parties. Without limiting the generality of the foregoing, Buyer shall be entitled to set-off claims and apply property held by Buyer with respect to any Transaction against obligations and liabilities owed by Seller to Buyer with respect to any other Transaction.
- (b) In addition to the rights in subsection (a), Buyer and its Affiliates, including, without limitation, Balboa Insurance Group, Inc., Countrywide Home Loans, Inc., Countrywide Securities Corporation, Countrywide Bank, FSB and LandSafe, Inc. (collectively, "**Countrywide Related Entities**"), shall have the right to set-off and to appropriate or

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apply any and all deposits of money or property or any other indebtedness at any time held or owing by the Countrywide Related Entity to or for the credit of the account of Seller and its Affiliates against and on account of the obligations of Seller under any agreement(s) between Seller and or its Affiliates, on the one hand, and the Countrywide Related Entity, on the other hand, irrespective of whether or not the Countrywide Related Entity shall have made any demand hereunder and whether or not said obligations shall have matured. In exercising the foregoing right to set-off, any Countrywide Related Entity shall be entitled to withdraw funds in the Over/Under Account which are being held for or owing to Seller to set-off against any amounts due and owing by Seller to the Countrywide Related Entity. If a Countrywide Related Entity other than Buyer intends to exercise its right to set-off in this subsection (b), such Countrywide Related Entity shall provide Seller prior notice thereof, and upon Seller's receipt of such notice, if the basis for such right to set-off is Seller's breach or default of its obligations to the Countrywide Related Entity, Seller shall have three (3) Business Days to cure any such breach or default in order to avoid such set-off.

- 11.9 **Reasonable Assurances.** If, at any time during the term of the Agreement, Buyer has reason to believe that Seller is not conducting its business in accordance with, or otherwise is not satisfying: (i) all applicable statutes, regulations, rules, and notices of federal, state, or local governmental agencies or instrumentalities, all applicable requirements of Approved Investors and Insurers and prudent industry standards or (ii) all applicable requirements of Buyer, as set forth in this Agreement, then, Buyer shall have the right to demand, pursuant to notice from Buyer to Seller specifying with particularity the alleged act, error or omission in question, reasonable assurances from Seller that such a belief is in fact unfounded, and any failure of Seller to provide to Buyer such reasonable assurances in form and substance reasonably satisfactory to Buyer, within the time frame specified in such notice, shall itself constitute an Event of Default hereunder, without a further cure period. Seller hereby authorizes Buyer to take such actions as may be necessary or appropriate to confirm the continued eligibility of Seller for Transactions hereunder, including without limitation (i) ordering credit reports and (ii) contacting Mortgagors, licensing authorities and Approved Investors or Insurers.

## ARTICLE 12 INDEMNIFICATION

- 12.1 **Indemnification.** Seller shall indemnify and hold harmless Buyer, its Affiliates and any of their respective officers, directors, employees and agents from and against any and all liabilities, obligations, losses, damages, penalties, judgments, suits, costs, expenses and disbursements of any kind whatsoever that may be imposed upon, incurred by or asserted against Buyer, its Affiliates and their respective officers, directors, employees and agents in any way relating to or arising out of the Principal Agreements or any other document referred to therein or any of the transactions contemplated thereby, except for liabilities, losses and damages solely resulting from the gross negligence or willful misconduct of Buyer and its Affiliates.

- 12.2 **Payment of Taxes.** Seller shall pay and hold Buyer harmless from and against any and all present and future stamp, documentary and other similar taxes with respect to the Purchased Assets, the Principal Agreements and other documents related thereto and hold Buyer harmless from and against any and all liabilities with respect to or resulting from any delay or omission to pay such taxes.

## ARTICLE 13 TERM AND TERMINATION

- 13.1 **Term.** Provided that no Event of Default has occurred and is continuing, and except as otherwise provided for herein, this Agreement shall commence on the Effective Date and continue until the Expiration Date set forth in the Transactions Terms Letter. Following expiration or termination of this Agreement, all indebtedness due Buyer under the Principal Agreements shall be immediately

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due and payable without notice to Seller and without presentment, demand, protest, notice of protest or dishonor, or other notice of default, and without formally placing Seller in default, all of which are hereby expressly waived by Seller.

- 13.2 **Termination.**
- (a) Buyer may, with or without cause, terminate this Agreement at any time on not less than sixty (60) days prior notice to Seller. During such prior notice time period and until the expiration thereof, Buyer shall continue to make Transactions to Seller pursuant to the terms and conditions of this Agreement, provided, however, within forty-five (45) days after the expiration of such time period, Seller shall pay the Repurchase Price for all outstanding Transactions.
  - (b) In addition to the remedies afforded Buyer upon the occurrence of an Event of Default, including, without limitation, those remedies afforded Buyer under this Agreement, Buyer may immediately terminate this Agreement by providing notice to Seller if such Event of Default is not cured within any applicable cure period expressly provided for in this Agreement.
  - (c) Buyer may immediately terminate this Agreement by providing notice to Seller if Buyer determines that there has been fraud, misrepresentation or any similar intentional conduct on behalf of Seller, its officers, directors, employees, agents and/or its representatives with respect to any of Seller's obligations, responsibilities or actions undertaken in connection with this Agreement.
  - (d) Buyer may immediately terminate this Agreement if (i) this Agreement or any Transaction is deemed by a court or by statute to not constitute a "repurchase agreement," a "securities contract," or a "master netting agreement," as each such term is defined in the Bankruptcy Code, (ii) payments or security offered hereunder are deemed by a court or by statute not to constitute "settlement payments" or "margin payments" as each such term is defined in the Bankruptcy Code or (iii) this Agreement or any Transaction is deemed by a court or by statute not to constitute an agreement to provide financial accommodations as described in Bankruptcy Code Section 365(c)(1); provided, however, that unless Buyer's cost of funds are materially and adversely affected by such determination and/or Buyer's source of funds requires Buyer to make immediate repayment of any funds provided to Buyer as a result thereof, Seller shall have forty-five (45) days after termination of the Agreement to pay the Repurchase Prices related to the then outstanding Transactions.

(e) Upon termination of this Agreement for any reason, and except as expressly provided for in subsections (a) and (d) above with respect to the Repurchase Prices for outstanding Transactions, all outstanding amounts due Seller under the Principal Agreements shall be immediately due and payable without notice to Seller and without presentment, demand, protest, notice of protest or dishonor, or other notice of default, and without formally placing Seller in default, all of which are hereby expressly waived by Seller. Further, any termination of this Agreement shall not affect the outstanding obligations of Seller under this Agreement and all such outstanding obligations and the rights and remedies afforded Buyer in connection therewith, including, without limitation, those rights and remedies afforded Buyer under this Agreement, shall survive any termination of this Agreement. Buyer shall not be liable to Seller for any costs, loss or damages arising from or relating to a termination by Buyer in accordance with any subsection of this Section 13.2.

13.3 **Extension of Term.** Upon mutual agreement of Seller and Buyer, the term of this Agreement may be extended. Such extension may be made subject to the terms and conditions hereunder and to any other terms and conditions as Buyer, in its sole and good faith discretion, may deem

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necessary or advisable. Under no circumstances shall such an extension by Buyer be interpreted or construed as a forfeiture by Buyer of any of its rights, entitlements or interest created hereunder. Seller acknowledges and understands that Buyer is under no obligation whatsoever to extend the term of this Agreement beyond the initial term.

#### ARTICLE 14 GENERAL

14.1 **Integration.** This Agreement, together with the other Principal Agreements, and all other documents executed pursuant to the terms hereof and thereof, constitute the entire agreement between the parties with respect to the subject matter hereof and supercedes any and all prior or contemporaneous oral or written communications with respect to the subject matter hereof, all of which such communications are merged herein. All Transactions hereunder constitute a single business and contractual relationship and each Transaction has been entered into in consideration of the other Transactions.

14.2 **Amendments.** No modification, waiver, amendment, discharge or change of this Agreement shall be valid unless the same is in writing and signed by the party against whom the enforcement of such modification, waiver, amendment, discharge or change is sought.

14.3 **No Waiver.** No failure or delay on the part of Seller or Buyer in exercising any right, power or privilege hereunder and no course of dealing between Seller and Buyer shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

14.4 **Remedies Cumulative.** The rights and remedies herein expressly provided are cumulative and not exclusive of any rights or remedies that Seller or Buyer would otherwise have. No notice or demand on Seller in any case shall entitle Seller to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of Buyer to any other or further action in any circumstances without notice or demand.

14.5 **Assignment.** The Principal Agreements may not be assigned by Seller. The Principal Agreements, along with Buyer's right, title and interest, including its security interest, in any or all of the Purchased Assets, may, at any time, be transferred or assigned, in whole or in part, by Buyer, and upon providing notice to Seller of such transfer or assignment, any transferee or assignee thereof may enforce the Principal Agreements and such security interest directly against Seller; provided, however, that if Buyer transfers or assigns the Principal Agreements for the purpose of a transferee or assignee assuming the obligations of Buyer hereunder with respect to entering into Transactions with Seller, any such transferee or assignee must be capable of complying with such obligations.

14.6 **Successors and Assigns.** The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

14.7 **Participations.** Buyer may from time to time sell or otherwise grant participations in this Agreement, and the holder of any such participation, if the participation agreement so provides, (i) shall, with respect to its participation, be entitled to all of the rights of Buyer and (ii) may exercise any and all rights of set-off or banker's lien with respect thereto, in each case as fully as though Seller were directly obligated to the holder of such participation in the amount of such participation; provided, however, that Seller shall not be required to send or deliver to any of the participants other than Buyer any of the materials or notices required to be sent or delivered by it under the terms of this Agreement, nor shall it have to act except in compliance with the instructions of Buyer.

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14.8 **Invalidity.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been included.

14.9 **Additional Instruments.** Seller shall execute and deliver such further instruments and shall do and perform all matters and things necessary or expedient to be done or observed for the purpose of effectively creating, maintaining and preserving the security and benefits intended to be afforded by this Agreement.

14.10 **Survival.** All representations, warranties, covenants and agreements herein contained on the part of Seller shall survive any Transaction and shall be effective so long as this Agreement is in effect or there remains any obligation of Seller hereunder to be performed.

14.11 **Notices.**

(a) All notices, demands, consents, requests and other communications required or permitted to be given or made hereunder in writing shall be mailed (first class, return receipt requested and postage prepaid) or delivered in person or by overnight delivery service or by facsimile,

addressed to the respective parties hereto at their respective addresses set forth below or, as to any such party, at such other address as may be designated by it in a notice to the other:

If to Seller: That address set forth in the Transactions Terms Letter

If to Buyer: Countrywide Bank, FSB  
8511 Fallbrook Avenue Mail Stop: WH-51F  
West Hills, CA 91304  
Facsimile No: (818) 316-8841

All written notices shall be conclusively deemed to have been properly given or made when duly delivered, if delivered in person or by overnight delivery service, or on the third (3<sup>rd</sup>) Business Day after being deposited in the mail, if mailed in accordance herewith, or upon transmission by the receiving party of a facsimile confirming receipt, if delivered by facsimile. Notwithstanding the foregoing, any notice of termination shall be deemed effective upon mailing, transmission, or delivery, as the case may be.

- (b) All notices, demands, consents, requests and other communications required or permitted to be given or made hereunder which are not required to be in writing may also be provided electronically either (i) as an electronic mail sent and addressed to the respective parties hereto at their respective electronic mail addresses set forth below, or as to any such party, at such other electronic mail address as may be designated by it in a notice to the other or (ii) with respect to Buyer, via a posting of such notice on Buyer's customer website(s).

If to Seller: That email address(es) specified in the Transactions Terms Letter, if any.

If to Buyer: Dan\_Baruch@countrywide.com

- 14.12 **Personal Identification Number.** Seller shall adopt a Personal Identification Number or PIN to be entered into the computer system in connection with all documents transmitted from Seller to Buyer electronically. Further, any document required to be signed by Seller may be signed by handwritten signature or transmitted electronically in conjunction with the PIN, except any written notification designating or changing the PIN and those documents required to be delivered

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pursuant to Section 7.1(a) above, which must be signed by hand. Seller shall provide Buyer with written notification of its PIN and any changes thereto; provided, however, that any change to the PIN may not become effective for twenty four (24) hours following Buyer's confirmation of receipt of such notice by Seller. Seller and Buyer agree that transmitting a document in conjunction with the PIN shall have the same force and effect as a handwritten signature and shall be sufficient to verify that Seller originated such document. Seller shall employ security procedures to ensure that all transmissions of documents accompanied by the PIN are authorized, authentic, reliable and complete and shall promptly notify Buyer if Seller discovers the PIN has been improperly disclosed to any Person. Notwithstanding the foregoing or any other breach of security, Buyer shall be entitled to rely upon the PIN of Seller until such time as (a) Seller provides Buyer with written instructions to the contrary and (b) Buyer has sufficient time to notify the appropriate employees and modify its computerized systems.

- 14.13 **Governing Law.** This Agreement and the rights and obligations of the parties under the Principal Agreements shall be construed in accordance with and governed by the laws of the State of California, without regard to principles of conflicts of laws. All legal actions between or among the parties regarding this Agreement, including, without limitation, legal actions to enforce this Agreement or because of a dispute, breach or default of this Agreement, shall be brought in the federal or state courts located in Los Angeles County, California, which courts shall have sole and exclusive in personam, subject matter and other jurisdiction in connection with such legal actions and the parties acknowledged and agree that venue in such courts shall be convenient and appropriate for all purposes.

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

- 14.15 **Headings.** The headings in this Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning or interpretation of any provisions hereof.

- 14.16 **Joint and Several Liability of Each Seller.** To the extent there is more than one Person which is named as a Seller under this Agreement, each such Person shall be jointly and severally liable for the rights, covenants, obligations and warranties and representations of "Seller" as contained herein and the actions of any Person (including another Seller) or third party shall in no way affect such joint and several liability.

- 14.17 **Confidential Information.** To effectuate this Agreement, Buyer and Seller may disclose to each other certain confidential information relating to the parties' operations, computer systems, technical data, business methods, and other information designated by the disclosing party or its agent to be confidential, or that should be considered confidential in nature by a reasonable person given the nature of the information and the circumstances of its disclosure (collectively the "**Confidential Information**"). Confidential Information can consist of information that is either oral or written or both, and may include, without limitation, any of the following: (i) any reports, information or material concerning or pertaining to businesses, methods, plans, finances, accounting statements, and/or projects of either party or their affiliated or related entities; (ii) any of the foregoing related to the parties or their related or affiliated entities and/or their present or future activities and/or (iii) any term or condition of any agreement (including this Agreement) between either party and any individual or entity relating to any of their business operations. With respect to Confidential Information, the parties hereby agree:

- (a) not to use the Confidential Information except in furtherance of this Agreement;
- (b) to use reasonable efforts to safeguard the Confidential Information against disclosure to any unauthorized third party with the same degree of care as they exercise with their own information of similar nature; and

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- (c) not to disclose Confidential Information to anyone other than employees, agents or contractors with a need to have access to the Confidential Information and who are bound to the parties by like obligations of confidentiality, except that the parties shall not be prevented from using or disclosing any of the Confidential Information which: (i) is already known to the receiving party at the time it is obtained from the disclosing party; (ii) is now, or becomes in the future, public knowledge other than through wrongful acts or omissions of the party receiving the Confidential Information; (iii) is lawfully obtained by the party from sources independent of the party disclosing the Confidential Information and without confidentiality and/or non-use restrictions; or (iv) is independently developed by the receiving party without any use of the Confidential Information of the disclosing party. Notwithstanding anything contained herein to the contrary, Buyer may share any Confidential Information of Seller with an Affiliate of Buyer for any valid business purpose, such as, but not limited to, to assist an Affiliate in evaluating a current or potential business relationship with Seller.
- (d) If any party or any of its successors, subsidiaries, officers, directors, employees, agents and/or representatives, including, without limitation, its insurers, sureties and/or attorneys, breaches its respective duty of confidentiality under this Agreement, the nonbreaching party(ies) shall be entitled to all remedies available at law and/or in equity, including, without limitation, injunctive relief.

14.18 **Intent.** Seller and Buyer recognize and intend that:

- (a) this Agreement and each Transaction hereunder constitutes a “repurchase agreement” as that term is defined in Section 101(47) of the Bankruptcy Code, a “securities contract” as that term is defined in Section 741(7) of the Bankruptcy Code and a “master netting agreement” as that term is defined in Section 101(38A) of the Bankruptcy Code. Seller and Buyer further recognize and intend that this Agreement is an agreement to provide financial accommodations and is not subject to assumption pursuant to Bankruptcy Code Section 365(a);
- (b) Buyer’s right to liquidate the Purchased Mortgage Loans delivered to it in connection with the Transactions hereunder or to accelerate or terminate this Agreement or otherwise exercise any other remedies herein is a contractual right to liquidate, accelerate or terminate such Transaction as described in Bankruptcy Code Sections 555, 559 and 561; any payments or transfers of property made with respect to this Agreement or any Transaction to: (i) satisfy a Margin Deficit, (ii) comply with a Margin Call, or (iii) satisfy the provision of Guarantees an/or additional security agreements to provide enhancements to satisfy a deficiency in the Over/Under Account, shall in each case be considered a “margin payment” as such term is defined in Bankruptcy Code Section 741(5); and
- (c) any payments or transfers of property by Seller (i) on account of a Haircut, (ii) in partial or full satisfaction of a repurchase obligation, or (iii) fees and costs under this Agreement or under any Transaction shall in each case constitute “settlement payments” as such term is defined in Bankruptcy Code Section 741(8).

14.19 **Right to Liquidate.** It is understood that either party’s right to liquidate Purchased Mortgage Loans delivered to it in connection with Transactions hereunder or to terminate or accelerate obligations under this Agreement or any individual Transaction, are contractual rights for same as described in Sections 555 and 559 of the Bankruptcy Code.

14.20 **Insured Depository Institution.** If a party hereto is an “insured depository institution” as such term is defined in the Federal Deposit Insurance Act (as amended, the “FDIA”), then each Transaction hereunder is a “qualified financial contract” as that term is defined in the FDIA and any rules, orders or policy statements thereunder except insofar as the type of assets subject to such Transaction would render such definition inapplicable.

14.21 **Netting Contract.** This Agreement constitutes a “netting contract” as defined in and subject to Title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 (“FDICIA”) and each payment entitlement and payment obligation under any Transaction hereunder shall constitute a “covered contractual payment entitlement” or “covered contractual payment obligation”, respectively, as defined in and subject to the FDICIA except insofar as one or more of the parties hereto is not a “financial institution” as that term is defined in the FDICIA.

14.22 **Reimbursement of Expenses.** If any claim, legal action or any arbitration or other proceeding is brought for the enforcement of this Agreement or because of a dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys’ fees and other reasonable costs in that claim, action, arbitration or proceeding, in addition to any other relief to which such party may be entitled.

14.23 **Examination and Oversight by Regulators.** Seller agrees that the transactions with Buyer under this Agreement may be subject to regulatory examination and oversight, including, without limitation, examination and oversight by the Office of Thrift Supervision (“OTS”). Seller shall comply with all regulatory requirements of Buyer and Seller shall grant regulatory agencies, including, but not limited to, the OTS, the right to audit the books and records of Seller in order to monitor or verify Seller’s performance under and compliance with the terms of this Agreement.

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

BUYER: COUNTRYWIDE BANK, FSB

By:           /s/ Richie Walia            
Name:           Richie Walia            
                    Senior Vice President            
Title:           Countrywide Bank, FSB          

SELLER: HOME LOAN CENTER, INC.

By: /s/ Rian Furey  
Name: Rian Furey  
Title: SVP

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**EXHIBIT A**

**GLOSSARY OF DEFINED TERMS**

**Accepted Servicing Practices:** With respect to any Purchased Mortgage Loan, those mortgage servicing practices of prudent mortgage lending institutions which service mortgage loans of the same type as such Purchased Mortgage Loan in the jurisdiction where the related Mortgaged Property is located.

**Acknowledgement of Confidentiality of Password Agreement:** That certain Acknowledgement of Confidentiality of Password Agreement attached hereto as Exhibit I.

**Additional Purchased Mortgage Loans:** Those additional Mortgage Loans or cash provided by Seller to Buyer pursuant to Section 6.3 of this Agreement.

**Affiliate:** With respect to any specified entity, any other entity controlling or controlled by or under common control with such specified entity. For the purposes of this definition, “control” when used with respect to a specified entity means the power to direct the management and policies of such entity, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms “controlling” and “controlled” having meanings correlative to the foregoing.

**Agency:** Fannie Mae or Freddie Mac.

**Aggregate Transaction Limit:** The maximum aggregate principal amount of Transactions that may be outstanding at any one time, as set forth in the Transactions Terms Letter.

**Applicable Pricing Rate:** With respect to any date of determination, the daily rate per annum (rounded up to three (3) decimal places) for one-month U.S. dollar denominated deposits as offered to prime banks in the London interbank market (“**One-Month LIBOR**”) as published on Bloomberg or in the Wall Street Journal. It is understood that the Applicable Pricing Rate shall be initially set to the then current One-Month LIBOR in effect on the date the Purchase Price is paid and shall thereafter be adjusted on a daily basis to the then current One-Month LIBOR.

**Application:** The application or “Buyer Application Profile,” including all supporting documentation, submitted by Seller to Buyer with respect to this Agreement.

**Approved Investor:** Fannie Mae, Freddie Mac, Ginnie Mae or a third party which is deemed acceptable by Buyer in its sole and good faith discretion, purchasing Purchased Mortgage Loans from Seller pursuant to a Purchase Commitment.

**Approved Payee:** A Closing Agent or warehouse lender approved by Buyer in accordance with Section 3.7.

**Asset Data Record:** A document, in the form required by Buyer and as may from time to time be amended by Buyer, as such form may be set forth in the Handbook, completed by Seller and submitted to Buyer with respect to each Purchased Mortgage Loan.

**Asset Value:** With respect to each Purchased Mortgage Loan for any date of determination, an amount equal to the following, as applicable, as same may be reduced in accordance with Section 4.3:

(a) if the Purchased Mortgage Loan has Standard Status, the product of the Mortgage Loan Value and the Type Purchase Price Percentage for the type of Purchased Mortgage Loan.

(b) if the Purchased Mortgage Loan is a Noncompliant Mortgage Loan, the product of the Mortgage Loan Value and the Type Purchase Price Percentage for a Noncompliant Mortgage Loan; or

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(c) if the Purchased Mortgage Loan is a Defective Mortgage Loan, zero.

For purposes of the foregoing, “**Mortgage Loan Value**” shall mean the lesser of (i) the outstanding principal balance of the Purchased Mortgage Loan; (ii) the committed purchase price of the Purchased Mortgage Loan, as evidenced by the related Purchase Commitment; and (iii) the fair market value of the Purchased Mortgage Loan, as determined by Buyer in its sole and good faith discretion.

**Assignment:** A duly executed assignment to Buyer in recordable form of a Purchased Mortgage Loan, of the indebtedness secured thereby and of all documents and rights related to such Purchased Mortgage Loan.

**Assignment of Closing Protection Letter:** An assignment assigning and subrogating Buyer to all of Seller’s rights in a Closing Protection Letter, substantially in the form of Exhibit F hereto.

**Assignment of Fidelity Bond and Errors and Omission Policy:** An assignment assigning and subrogating Buyer to all of Seller’s rights in a Fidelity Bond and Errors and Omissions Policy, substantially in the form of Exhibit G hereto.

**Bailee Agreement:** A bailee agreement substantially in the form acceptable to Buyer.

**Bankruptcy Code:** Title 11 of the United States Code, now or hereafter in effect, as amended, or any successor thereto.

**Bond Loans – 1<sup>st</sup> Liens:** Unless defined otherwise in the Transactions Terms Letter, a first lien mortgage loan, other than a Nonperforming/Subperforming Mortgage Loan, that is eligible for sponsorship, facilitated or insured by a qualifying local or state home governmental homeownership program.

**Bond Loans – 2<sup>nd</sup> Liens:** Unless defined otherwise in the Transactions Terms Letter, a second lien mortgage loan for a fixed amount drawn at closing, that is eligible for sponsorship, facilitated or insured by a qualifying local or state governmental home homeownership program.

**Breakage Fee:** That fee, if set forth in the Transactions Terms Letter or otherwise indicated on Buyer's then-current schedule of fees, payable by Seller to Buyer if Seller fails to consummate a Transaction after Seller has submitted a Asset Data Record in connection with such requested Transaction.

**Business Day:** Any day, excluding Saturday, Sunday and any day that is a legal holiday under the laws of the State of California.

**Cash Equivalents:** Any (a) securities with maturities of ninety (90) days or less from the date of acquisition issued or fully guaranteed or insured by the United States Government or any agency thereof, (b) certificates of deposit and Eurodollar time deposits with maturities of ninety (90) days or less from the date of acquisition and overnight bank deposits of any commercial bank having capital, surplus and retained earnings in excess of \$70,000,000, (c) repurchase obligations of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of more than seven days with respect to securities issued or fully guaranteed or insured by the United States Government, (d) commercial paper of a domestic issuer rated at least A-1 or the equivalent thereof by S&P or p-1 or the equivalent thereof by Moody's and in either case maturing within ninety (90) days after the day of acquisition, (e) securities with maturities of ninety (90) days or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least A by S&P or A by Moody's, (f) securities with maturities of ninety (90) days or less from the date of acquisition backed by standby letters of credit issued by any commercial bank satisfying the

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requirements of clause (b) of this definition, or (g) shares of money market, mutual or similar funds which invest exclusively in assets satisfying the requirements of clauses (a) through (f) of this definition.

**Cashiers Check Fee:** That fee, as set forth in the Transactions Terms Letter or otherwise indicated on Buyer's then-current schedule of fees, payable by Seller for each disbursement made by a cashiers check issued to Seller or its Approved Payee.

**Change of Control:** Change of Control shall mean any of the following:

- (a) if Seller is a corporation, any "person" (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")), other than a trustee or other fiduciary holding securities of Seller under an employee benefit plan of Seller, becomes the "beneficial owner" (as defined in Rule 13d-3 promulgated under the Exchange Act), directly or indirectly, of securities of Seller representing 50% or more of (A) the outstanding shares of common stock of Seller or (B) the combined voting power of Seller's then-outstanding securities;
- (b) if Seller is a legal entity other than a corporation, the majority voting control of Seller, or its equivalent, under Seller's governing documents is transferred to any Person;
- (c) Seller is party to a merger or consolidation, or series of related transactions, which results in the voting securities or majority voting control interest of Seller outstanding immediately prior thereto failing to continue to represent (either by remaining outstanding or by being converted into voting securities or a majority voting controlling interest of the surviving or another entity) at least fifty (50%) percent of the combined voting power of the voting securities or majority voting control interest of Seller or such surviving or other entity outstanding immediately after such merger or consolidation;
- (d) the sale or disposition of all or substantially all of Seller's assets (or consummation of any transaction, or series of related transactions, having similar effect);
- (e) there occurs a change in the composition of the Board of Directors or governing body of Seller within a one (1) year period, as a result of which fewer than a majority of the directors or governing body members are incumbent;
- (f) the dissolution or liquidation of Seller; or
- (g) any transaction or series of related transactions that has the substantial effect of any one or more of the foregoing.

**Closed-End Second Lien Mortgage Loan:** Unless defined otherwise in the Transactions Terms Letter, a second lien mortgage loan for a fixed amount drawn at closing and underwritten in accordance with Seller's underwriting guidelines for second lien mortgages, as same have been approved by Buyer.

**Closing Agent:** The Person designated by Seller and approved by Buyer in accordance with Section 3.7 to receive Purchase Prices from Buyer, for the account of Seller, for the purpose of funding a Purchased Mortgage Loan.

**Closing Protection Letter:** A document issued by a title insurance company to Seller and/or Buyer and relied upon by Buyer to provide closing protection for one or more mortgage loan closings and to insure Seller and/or Buyer, without limitation, against embezzlement by the Closing Agent and loss or damage resulting from the failure of the Closing Agent to comply with all applicable closing instructions.

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**Contingent Obligations:** Any obligation of Seller arising from an existing condition or situation that involves uncertainty as to outcome and that will be resolved by the occurrence or nonoccurrence of some future event, including, without limitation, any obligation guaranteeing or intended to guarantee any Debt, leases, dividends or other obligations of any other Person in any manner, whether directly or indirectly; provided, however, that endorsements of instruments for deposit or collection in the ordinary course of business shall not be included. With respect to guarantees, the amount of the Contingent Obligation shall be equal to the stated or determinable amount of the primary obligation in respect of the guarantee or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof, as determined by Buyer.

**Control Agreement:** the agreement to perfect Buyer's security interest in the Custodial Account as described at Section 6.2(g) of this Agreement.

**Conventional Conforming Mortgage Loan:** Unless defined otherwise in the Transactions Terms Letter, a first lien mortgage loan that fully conforms to all underwriting standards, loan amount limitations and other requirements of that standard Agency mortgage loan purchase program accepting only the highest quality mortgage loans underwritten without dependence on expanded criteria provisions, or that is approved by Desktop Underwriter or Loan Prospector.

**Countrywide CLD:** The Correspondent Lending Division of Countrywide Home Loans, Inc.

**Current Assets:** Those assets set forth in the consolidated balance sheet of Seller, prepared in accordance with GAAP, as current assets, defined as those assets that are now cash or will by their terms or disposition be converted to cash within one (1) year of the date of the determination.

**Current Liabilities:** Those liabilities set forth in the consolidated balance sheet of Seller, prepared in accordance with GAAP, as current liabilities, defined as those liabilities due upon demand or within one (1) year of the date of determination.

**Custodial Account:** The account described at Section 6.2(g) of this Agreement.

**Custodian:** Countrywide Home Loans, Inc., Countrywide Bank, FSB or such other custodian selected by Buyer in its sole and good faith discretion.

**Date of Disbursement:** The date of disbursement shall mean (i) with respect to a wire transfer, the date such funds are wired, (ii) with respect to a cashiers check, the date such check is issued by the bank and (iii) with respect to a funding draft, the date that the draft is posted by the bank on which the draft is drawn.

**Debt:** The debt of Seller consisting of, without duplication: (a) indebtedness for borrowed money, including principal, interest, fees and other charges; (b) obligations evidenced by bonds, debentures, notes or other similar instruments; (c) obligations to pay the deferred purchase price of property or services; (d) obligations as lessee under leases that shall have been or should be in accordance with GAAP, recorded as capital leases; (e) obligations secured by any lien upon property or assets owned by Seller, even though Seller has not assumed or become liable for payment of such obligations; (f) obligations in connection with any letter of credit issued for the account of Seller; (g) obligations under direct or indirect guarantees in respect of and obligations, contingent or otherwise, to purchase or otherwise acquire, or otherwise assure a creditor against loss in respect of, indebtedness or obligations of others of the kinds referred to above; and (h) all Contingent Obligations. Notwithstanding the foregoing, the term "Debt" shall not include any obligations of Seller under that certain Early Purchase Program Addendum to Loan Purchase Agreement by and between Seller and Countrywide Home Loans, Inc.

**Default Rate:** The maximum nonusurious interest rate, if any, that at any time, or from time to time, may be contracted for, taken, reserved, charged or received under the laws of the United States and the State of California, not to exceed the sum of five percent (5%) plus the Applicable Rate.

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**Defective Loan Fee:** A fee equal to five hundred dollars (\$500) payable by Seller for each Purchased Mortgage Loan that is or becomes a Defective Mortgage Loan.

**Defective Mortgage Loan:** A Purchased Mortgage Loan:

- (a) that has not been repurchased within the Maximum Dwell Time for a Noncompliant Mortgage Loan or is ineligible to be a Noncompliant Mortgage Loan because the aggregate original Asset Value of other Purchased Mortgage Loans that are deemed to be Noncompliant Mortgage Loans is equal to or greater than the Type Sublimit for Noncompliant Mortgage Loans;
- (b) that is the subject of fraud by any Person involved in the origination of such Mortgage Loan and such fraud shall not have been remedied within three (3) Business Days after receipt of notice from Buyer to do so;
- (c) where the related Mortgaged Property is the subject of material damage or waste and such damage or waste shall not have been remedied within three (3) Business Days after receipt of notice from Buyer to do so;
- (d) in connection with which any other breach of a warranty or representation set forth in [Section 8.2](#) occurs and remains uncured for a period of ten (10) calendar days;
- (e) in connection with which a default occurs under the Purchased Mortgage Loan and remains uncured for a period of ten (10) calendar days; or
- (f) where the related Mortgagor fails to make the first payment due under the Mortgage Note on or before the applicable due date, including any days of grace, and such default shall not have been remedied within three (3) Business Days after receipt of notice from Buyer to do so; provided, however, that with respect to any Nonperforming/Subperforming Mortgage Loan where specific payment conditions have been set forth in the Transactions Terms Letter, such Nonperforming/Subperforming Mortgage Loan shall only be deemed a Defective Mortgage Loan for failure of the Mortgagor to make payment if such failure constitutes a breach of the such specific payment conditions.

**Document Deposit Fee:** That fee, as set forth in the Transactions Terms Letter or otherwise indicated on Buyer's then-current schedule of fees, payable by Seller for each Mortgage Loan Document delivered to Buyer after the initial delivery date of the related Mortgage Loan File.

**Dry Mortgage Loan:** A Mortgage Loan for which Buyer or its Custodian has possession of the related Mortgage Loan Documents, in a form and condition acceptable to Buyer, prior to the payment of the Purchase Price.

**Effective Date:** That effective date set forth in the Transactions Terms Letter.

**Electronic Tracking Agreement:** An Electronic Tracking Agreement in a form acceptable to Buyer.

**Eligible Bank:** A bank selected by Seller and approved by Buyer in writing and authorized to conduct trust and other banking business in any state in which Seller conducts operations.

**ERISA:** The Employee Retirement Income Security Act of 1974, as amended from time to time and any successor statute.

**ERISA Affiliate:** Any person (as defined in section 3(9) of ERISA) that together with Seller or any of its subsidiaries would be a member of the same “controlled group” within the meaning of Section 414(b), (m), (c) and (o) of the Internal Revenue Code of 1986, as amended.

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**Executive Management:** Chairman of the board of directors, chief executive officer, president, and chief financial officer.

**Expanded Criteria Mortgage Loan:** Unless defined otherwise in the Transactions Terms Letter, a first lien mortgage loan underwritten to the same high credit standards as a Conventional Conforming Mortgage Loan except with respect to loan programs and parameters that may have broader specifications of eligibility.

**Event of Default:** Any of the conditions or events set forth in Section 11.1.

**Expiration Date:** The Expiration Date set forth in the Transactions Terms Letter for the expiration of this Agreement.

**Facility Fee:** The non-refundable, annual commitment fee, as set forth in the Transactions Terms Letter.

**Fannie Mae:** The Federal National Mortgage Association and any successor thereto.

**FHA:** The Federal Housing Administration of the United States Department of Housing and Urban Development and any successor thereto.

**File Fee:** That fee, as set forth in the Transactions Terms Letter or otherwise indicated on Buyer’s then current schedule of fees, payable by Seller upon submission of the related Asset Data Record whether or not the Transaction is actually made.

**Freddie Mac:** The Federal Home Loan Mortgage Corporation and any successor thereto.

**Funding Draft Fee:** That fee, as set forth in the Transactions Terms Letter or otherwise indicated on Buyer’s then-current schedule of fees, payable by Seller for each payment of the Purchase Price by funding draft.

**GAAP:** Generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and the statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession and that are applicable to the circumstances as of the date of determination.

**Ginnie Mae:** Government National Mortgage Association or any successor thereto.

**Government Mortgage Loan:** Unless defined otherwise in the Transactions Terms Letter, a first lien mortgage loan, other than a Nonperforming/Subperforming Mortgage Loan, that is (a) eligible for insurance by FHA and is so insured or is subject to a current binding and enforceable commitment for such insurance pursuant to the provisions of the National Housing Act, as amended, and is otherwise eligible for inclusion in a Ginnie Mae mortgage-backed security pool; or (b) eligible to be guaranteed by the VA and is so guaranteed or is subject to a current binding and enforceable commitment for such guarantee pursuant to the provisions of the Servicemen’s Readjustment Act, as amended, and is otherwise eligible for inclusion in a Ginnie Mae mortgage-backed security pool.

**Guarantee:** A guarantee signed by a Guarantor, if set forth in the Transactions Terms letter, in a form acceptable to Buyer.

**Guarantors:** Those guarantors if set forth in the Transactions Terms Letter.

**Handbook:** The guide prepared by Buyer containing additional policies and procedures, as same may be amended from time to time.

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**Haircut:** With respect to each Transaction, an amount equal to the difference between the Purchase Price and the Asset Value of the Purchased Mortgage Loan, which shall be considered a “settlement payment” as defined in Bankruptcy Code Section 741(8).

**HELOC 1<sup>st</sup> Mortgages:** Unless defined otherwise in the Transactions Terms Letter, a first lien mortgage loan that is a home equity line of credit underwritten in accordance with Seller’s underwriting guidelines for HELOCs, as same have been approved by Buyer.

**HELOC Mortgage Loan:** Unless defined otherwise in the Transactions Terms Letter, a home equity line of credit underwritten in accordance with Seller’s underwriting guidelines for HELOCs, as same have been approved by Buyer.

**HUD:** The United States Department of Housing and Urban Development or any successor thereto.

**Insolvency Event:** The occurrence of any of the following events:

- (a) such Person shall become insolvent or generally fail to pay, or admit in writing its inability to pay, its debts as they become due, or shall voluntarily commence any proceeding or file any petition under any bankruptcy, insolvency or similar law or seeking dissolution, liquidation or reorganization or the appointment of a receiver, trustee, custodian, conservator or liquidator for itself or a substantial portion of its property, assets or business or to effect a plan or other arrangement with its creditors, or shall file any answer admitting the jurisdiction of the court and the material allegations of an involuntary petition filed against it in any bankruptcy, insolvency or similar proceeding, or shall be adjudicated bankrupt, or shall make a general assignment for the benefit of creditors, or such Person, or a substantial part of its property, assets or business, shall be subject to, consent to or acquiesce in the appointment of a receiver, trustee, custodian, conservator or liquidator for itself or a substantial property, assets or business;
- (b) corporate action shall be taken by such Person for the purpose of effectuating any of the foregoing;
- (c) an order for relief shall be entered in a case under the Bankruptcy Code in which such Person is a debtor; or
- (d) involuntary proceedings or an involuntary petition shall be commenced or filed against such Person under any bankruptcy, insolvency or similar law or seeking the dissolution, liquidation or reorganization of such Person or the appointment of a receiver, trustee, custodian, conservator or liquidator for such Person or of a substantial part of the property, assets or business of such Person, or any writ, order, judgment, warrant of attachment, execution or similar process shall be issued or levied against a substantial part of the property, assets or business of such Person, and such proceeding or petition shall not be dismissed, or such execution or similar process shall not be released, vacated or fully bonded, within sixty (60) days after commencement, filing or levy, as the case may be.

**Insurer:** A private mortgage insurer, which is acceptable to Buyer in its sole and good faith discretion.

**Intercreditor Agreement:** An agreement substantially in the form acceptable to Buyer.

**Irrevocable Closing Instructions:** Closing instructions, including wire instructions, in the form of Exhibit B issued in connection with funds disbursed for the funding of a Wet Mortgage Loan.

**Jumbo Mortgage Loan:** Unless defined otherwise in the Transactions Terms Letter, a first lien mortgage loan underwritten to the same standards as a Conventional Conforming Mortgage Loan except with respect to the original principal balance, which is greater than that permitted by the Agencies but less than one million (\$1,000,000) dollars.

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**Key Personnel:** Any employee, officer, director, agent or representative of Seller if identified in the Transactions Terms Letter as a Key Person.

**Liquidity:** If applicable, the Cash Equivalents liquidity requirement of Seller as set forth in the Transactions Terms Letter.

**Margin:** With respect to each Transaction, the pricing rate set forth in the Transactions Terms Letter that shall be added to the Applicable Pricing Rate to determine the pricing rate for the Purchase Price.

**Margin Call:** A margin call, as defined and described in Section 6.3.

**Margin Deficit:** A margin deficit, as defined and described in Section 6.3.

**Material and Adverse Change:** A material and adverse change with respect to (i) the business, operations, properties or financial condition of Seller or (ii) general market circumstances or conditions, including, without limitation, if any law, regulation, treaty or directive or any change therein or in the interpretation or application thereof, or any circumstance affecting the London interbank market or the repurchase market for mortgage loans or mortgage-backed securities, in either case of (i) or (ii), as such material and adverse change is determined by Buyer in its sole and good faith discretion.

**Maximum Dwell Time:** The maximum number of days a Purchased Mortgage Loan can be not repurchased by Seller before such Purchased Mortgage Loan may be deemed to be a Noncompliant Mortgage Loan and with respect to a Noncompliant Mortgage Loan, the maximum number of days that a Purchased Mortgage Loan can be deemed to be a Noncompliant Mortgage Loan before such Noncompliant Mortgage Loan may be deemed to be a Defect Mortgage Loan, all as set forth in the Transactions Terms Letter.

**MERS:** Mortgage Electronic Registration Systems, Inc., a Delaware corporation, or any successor in interest thereto.

**Mortgage:** A first-lien or second-lien mortgage, deed of trust, security deed or similar instrument on improved real property.

**Mortgage-Backed Securities:** Any security, including, without limitation, a participation certificate, that is (a) guaranteed by Ginnie Mae that represents an interest in a pool of mortgages, deeds of trusts or other instruments creating a lien on real property; (b) issued by Fannie Mae or Freddie Mac that represents interests in such a pool; or (c) privately placed and represents undivided interests in or otherwise supported by such a pool.

**Mortgage Loan:** A Conventional Conforming Mortgage Loan, Government Mortgage Loan, Jumbo Mortgage Loan, Super Jumbo Mortgage Loan, Expanded Criteria Mortgage Loan, Subprime Mortgage Loan, Closed-End Second Lien Mortgage Loan, HELOC Mortgage Loan or Nonperforming/Subperforming Mortgage Loan, which Mortgage Loan may be either a Dry Mortgage Loan or a Wet Mortgage Loan.

**Mortgage Loan Documents:** With respect to each Purchased Mortgage Loan:

- (a) the original Mortgage Note evidencing the Mortgage Loan, endorsed by Seller in blank, with a complete chain from the originator to Seller;
- (b) an original assignment in blank, executed by Seller, for the Mortgage securing the Mortgage Note, in recordable form but unrecorded, with a complete chain of intervening assignments from the originator to Seller;

(c) a certified or true copy of the Mortgage securing the Mortgage Note bearing evidence of the recordation of such Mortgage with the appropriate governmental authority, or if such recording

information is unavailable because the document has not yet come back from the recording office, then a copy of evidence that such original Mortgage was sent out for recording by a Closing Agent; and

(d) an original or copy of the title insurance policy insuring the first lien or second lien position of the Mortgage, as applicable, in at least the original principal amount of the related Mortgage Note and containing only those exceptions permitted by the Purchase Commitment or an unconditional commitment to issue such a title insurance policy.

**Mortgage Loan File**: With respect to each Mortgage Loan, that file that contains the Mortgage Loan Documents and is delivered to Buyer or its Custodian.

**Mortgage Note**: A promissory note secured by a Mortgage and evidencing a Mortgage Loan.

**Mortgaged Property**: The real property securing repayment of the debt evidenced by a Mortgage Note.

**Mortgagor**: The obligor of a Mortgage Loan.

**Noncompliant Mortgage Loan**: As of any date of determination, a Purchased Mortgage Loan that has been:

- (a) not repurchased within the Maximum Dwell Time permitted, given the type of Purchased Mortgage Loan, but less than the Maximum Dwell Time for Noncompliant Mortgage Loans;
- (b) rejected by the Approved Investor set forth in the related Purchase Commitment; or
- (c) determined to be ineligible for sale as a Purchased Mortgage Loan of the type originally stipulated.

**Noncompliant Mortgage Loan Fee**: A one-time fee, as set forth in the Transactions Terms Letter or otherwise indicated on Buyer's then current schedule of fees, payable by Seller for each Purchased Mortgage Loan that is deemed to be a Noncompliant Mortgage Loan.

**Nonperforming/Subperforming Mortgage Loan**: Unless defined otherwise in the Transactions Terms Letter, a first or second lien Mortgage Loan that when originated qualified as a Conventional Conforming Mortgage Loan, Government Mortgage Loan, Expanded Criteria Mortgage Loan, Subprime Mortgage Loan, Closed-End Second Lien Mortgage Loan or HELOC Mortgage Loan, however, such Mortgage Loan has a history of late payments during the past twelve months (the exact number permitted late payment to be determined by Buyer in its sole and good faith discretion) or is currently past due more than thirty (30) days.

**One Time Close Loan**: Unless defined otherwise in the Transactions Terms Letter, a first lien mortgage loan underwritten to the same credit standards as a Conventional Conforming Mortgage Loan, Expanded Criteria Mortgage Loan, Jumbo Mortgage Loans or Super Jumbo Mortgage Loan and has the additional feature of combining a construction loan advance with a conversion provision to permanent financing in a single loan transaction.

**Other Mortgage Loan Documents**: In addition to the Mortgage Loan Documents, the following: (i) the original recorded Mortgage, if not included in the Mortgage Loan Documents; (ii) the original policy of mortgagee's title insurance or unexpired commitment for a policy of mortgagee's title insurance, if not included in the Mortgage Loan Documents; (iii) the original Closing Protection Letter; (iv) the original Purchase Commitment; (v) the original FHA certificate of insurance or commitment to insure, the VA certificate of guaranty or commitment to guaranty and the private mortgage insurer's certificate or commitment to insure, as applicable; (vi) the survey, flood certificate, hazard insurance policy and flood insurance policy, as applicable; (vii) the original of any assumption, modification, written assurance or substitution of liability agreement, if any; (viii) copy of each instrument necessary to complete

identification of any exception set forth in the exception schedule in the title policy; (ix) the loan application; (x) verification of employment and income, if applicable; (xi) verification of source and amount of downpayment; (xii) credit report on Mortgagor; (xiii) appraisal of Mortgaged Property; (xiv) the original executed disclosure statement; (xv) Tax receipts, insurance premium receipts, ledger sheets, payment records, insurance claim files and correspondence, current and historical computerized data files, underwriting standards used for origination and all other related papers and records; and (xvi) all other documents relating to the Purchased Mortgage Loan.

**Over/Under Account**: That account maintained by Buyer, as described in [Section 3.5](#).

**Payment Date**: The fifth (5<sup>th</sup>) day of each month, or if such date is not a Business Day, the Business Day immediately preceding the last day of the month; provided, however, Buyer may change the Payment Date from time to time upon thirty (30) days prior notice to Seller.

**Person**: Includes natural persons, corporations, limited partnerships, general partnerships, limited liability companies, joint stock companies, joint ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts or other organizations, whether or not legal entities, and governments and agencies and political subdivisions thereof.

**Personal Identification Number or PIN**: An electronic identification number, unique to Seller, consisting of any combination of symbols, codes, letters or numerals.

**Plan**: Any multiemployer plan or single-employer plan as defined in section 4001 of ERISA, that is maintained and contributed to by (or to which there is an obligation to contribute of), or at any time during the five (5) calendar years preceding the date of this Agreement was maintained or contributed to by (or to

which there is an obligation to contribute of), Seller or by a subsidiary of Seller or an ERISA Affiliate.

**Potential Default:** The occurrence of any event or existence of any condition that, but for the giving of notice, the lapse of time, or both, would constitute an Event of Default.

**Power of Attorney:** That certain power of attorney attached hereto as Exhibit H.

**Principal Agreements:** This Agreement, the Transactions Terms Letter, the Electronic Tracking Agreement, any Servicing Agreement, the Guarantee(s), if applicable, and all other documents and instruments evidencing the Transactions, as same may from time to time be supplemented, modified or amended, and any other agreement entered into between Buyer and Seller in connection herewith or therewith.

**Proceeds:** Whatever is receivable or received when Purchased Assets or proceeds is sold, collected, exchanged or otherwise disposed of, whether such disposition is voluntary or involuntary, and includes, without limitation, all rights to payment, including return premiums, with respect to any insurance relating thereto.

**Property Charges:** All taxes, fees, assessments, water, sewer and municipal charges (general or special) and all insurance premiums, leasehold payments or ground rents.

**Purchase Advice:** In connection with each wire transfer to be made to Buyer by Seller or an Approved Investor, a written or electronic notification setting forth (a) the loan number assigned by Buyer or last name of the Mortgagor for each Mortgage Loan that is related to the Transaction in connection with which a payment is being made; (b) the amount of the wire transfer to be applied in the Transaction; and (c) the total amount of the wire.

**Purchase Commitment:** A trade ticket or other written commitment, in form and substance satisfactory to Buyer, issued in favor of Seller by an Approved Investor pursuant to which that Approved Investor commits to purchase one or more Purchased Mortgage Loans, along with the related correspondent or

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whole loan purchase agreement by and between Seller and the Approved Investor, in form and substance satisfactory to Buyer, governing the terms and conditions of any such purchases.

**Purchase Date:** The date on which Buyer purchases a Purchased Mortgage Loan from Seller. If the Purchase Price is made by wire transfer, the Purchase Date shall be the date such funds are wired. If the Purchase Price is made by a cashiers check, the Purchase Date shall be the date such check is issued by the bank. If the Purchase Price is paid by a funding draft, the Purchase Date shall be the date that the draft is posted by the bank on which the draft is drawn.

**Purchase Price:** The price at which each Purchased Mortgage Loan is sold by Seller to Buyer which shall be equal to the lesser of (A) the unpaid principal balance of the Purchased Mortgage Loan multiplied by the lesser of (i) the applicable Type Purchase Price Percentage (ii) par, (iii) the purchase price percentage set forth in the related Purchase Commitment(s), if applicable or (iv) the Market Value purchase price percentage of such Mortgage Loan on the Purchase Date or (B) ninety eight percent (98%) multiplied by the lesser of (i) the purchase price committed by the related Approved Investor, if applicable or (ii) the Market Value of such Mortgage Loan.

**Purchased Assets:** All now existing and hereafter arising right, title and interest of Seller in, under and to the following:

(a) all Mortgage Loans, now owned and hereafter acquired, including all Mortgage Notes and Mortgages evidencing such Mortgage Loans and the related Mortgage Loan Documents, for which a Transaction has been entered into between Buyer and Seller hereunder and for with the Repurchase Price has not been paid in full and all Mortgage Loans, including all Mortgage Notes and Mortgages evidencing such Mortgage Loans and the related Mortgage Loan Documents, which, from time to time, are delivered, or caused to be delivered, to Buyer (including delivery to a custodian or other third party on behalf of Buyer) as additional security for the performance of Seller's obligations hereunder;

(b) all Mortgage-Backed Securities, now owned or hereafter acquired by Seller, that are supported by any Mortgage Loan constituting Purchased Assets hereunder, all right to the payment of monies in non-cash distributions on account thereof and all new, substituted and additional securities at any time issued with respect thereto;

(c) all rights of Seller under all Purchase Commitments, now existing and hereafter arising, covering any part of the Purchased Assets, all rights to deliver such Mortgage Loans and Mortgage-Backed Securities to permanent investors and other purchasers pursuant thereto and all proceeds resulting from the disposition of such Purchased Assets thereto;

(d) all now existing and hereafter established accounts maintained with broker-dealers by Seller for the purpose of carrying out transactions under Purchase Commitments relating to any part of the Purchased Assets;

(e) all now existing and hereafter arising rights of Seller to service, administer and/or collect on the Mortgage Loans included as Purchased Assets hereunder and any and all rights to the payment of monies on account thereof;

(f) all now existing and hereafter arising accounts, contract rights and general intangibles constituting or relating to any of the Purchased Assets;

(g) all mortgage insurance and all commitments issued by Insurers to insure or guaranty any Mortgage Loans included as Purchased Assets, including, without limitation, the right to receive all insurance proceeds and condemnation awards that may be payable in respect of the premises encumbered by any Mortgage; and all other documents or instruments delivered to Buyer in respect of the Mortgage Loans included as Purchased Assets;

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(h) All documents, files, surveys, certificates, correspondence, appraisals, computer programs, tapes, discs, cards, accounting records and other information and data of Seller relating to Mortgage Loans included as Purchased Assets;

- (i) All rights, but not any obligations or liabilities, of Seller with respect to the Approved Investors;
- (j) All property of Seller, in any form or capacity now or at any time hereafter in the possession or control of Buyer, including, without limitation, all deposit accounts and any funds at any time held therein, into which Proceeds of the foregoing Purchased Assets are at any time deposited;
- (k) All products and Proceeds of the foregoing Purchased Assets; and
- (l) Any funds of Seller at any time deposited or held in the Over/Under Account.

**Purchased Mortgage Loan:** A Mortgage Loan that has been purchased by Buyer from Seller in connection with a Transaction and which has not been repurchased by Seller hereunder.

**Reportable Event:** An event described in Section 4043(b) of ERISA with respect to a Plan as to which the thirty (30) days notice requirement has not been waived by the Pension Benefit Guaranty Corporation.

**Repurchase Acceleration Event:** Any of the conditions or events set forth in Section 4.2.

**Repurchase Date:** The date on which Seller is to repurchase a Purchased Mortgage Loan subject to a Transaction from Buyer, as specified in the related Transaction and/or Asset Data Record, or if not so specified, the date identified to Buyer by Seller as the date that the related Purchased Mortgage Loan is to be sold pursuant to a Purchase Commitment; provided, however, that if the Repurchase Date is not a date within the Maximum Dwell Time, Buyer may, at its discretion, deem such Purchased Mortgage Loan a Noncompliant Mortgage Loan and Buyer may pursue any rights and remedies accorded Buyer hereunder as a result thereof, including, without limitation, charging Seller any applicable fees as a result thereof. The Repurchase Date for each Purchased Mortgage Loan shall in no event occur later than one year after the Purchase Date of such Purchased Mortgage Loan.

**Repurchase Price:** The price at which a Purchased Mortgage Loan is to be transferred from Buyer or its designee to Seller upon termination of a Transaction, which shall be determined as the sum of (i) the Purchase Price, (ii) any applicable fees owed by Seller in connection with the Purchased Mortgage Loan and (iii) the price differential due on such Purchase Price pursuant to Section 2.6 as of the date of such determination.

**Repurchase Transaction:** A repurchase transaction, as defined and described in Section 6.6.

**Servicer:** Countrywide Home Loans Servicing LP, or such other entity responsible for servicing of the Purchased Mortgage Loans, which is acceptable to Buyer and approved by Buyer in writing, or any successor or permitted assigns.

**Servicer Notice:** The notice acknowledged by the Servicer substantially in the form of Exhibit L hereto.

**Servicing Agreement:** If the Purchased Mortgage Loans are serviced by any third party servicer, the agreement with that third party in form and substance acceptable to Buyer.

**Servicing Fee:** With respect to a Purchased Mortgage Loan, the sum of all amounts deposited in the Custodial Account between the Purchase Date and the Repurchase Date, other than escrow payments for Property Charges.

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**Shipping Fee:** That fee, as set forth in the Transactions Terms Letter or otherwise indicated on Buyer's then current schedule of fees, payable by Seller to Buyer for each Mortgage Loan File, or portion thereof, Buyer delivers to Seller, an Approved Investor or other designee.

**Specialty ARM's:** Unless defined otherwise in the Transactions Terms Letter, Non-conforming PayOption ARM's or one or six month interest only ARM's for loan amounts up to one million five hundred thousand (\$1,500,000) dollars meeting the guidelines of Countrywide CLD.

**Specialty ARM's Plus:** Unless defined otherwise in the Transactions Terms Letter, Non-conforming Payment Advantage ARM's for loan amounts up to one million five hundred thousand (\$1,500,000) dollars meeting the guidelines of Countrywide CLD.

**Standard Status:** As of any date of determination, the Purchased Mortgage Loan has been subject to a Transaction for less than the Maximum Dwell Time and is not a Noncompliant Mortgage Loan or a Defective Mortgage Loan.

**Subordinated Debt:** Debt of Seller that has been subordinated to Buyer as provided in this Agreement or as otherwise approved by Buyer.

**Subprime 2<sup>nd</sup> Lien:** Unless defined otherwise in the Transactions Terms Letter, a second lien mortgage loan for a fixed amount drawn at closing and underwritten in accordance with Seller's underwriting guidelines for second lien mortgages, as same have been approved by Buyer, and the credit characteristics of such loan would generally not meet the credit underwriting guidelines of Fannie Mae, Freddie Mac, FHA, VA or major non-conforming purchasers.

**Subprime Mortgage Loan:** Unless defined otherwise in the Transactions Terms Letter, a first lien mortgage loan underwritten in accordance with Seller's underwriting guidelines for subprime mortgage loans, as same have been approved by Buyer.

**Successor Servicer:** The servicer of the Purchased Mortgage Loans appointed by Buyer as described in Section 6.2(e) of this Agreement.

**Super Jumbo Mortgage Loan:** Unless defined otherwise in the Transactions Terms Letter, a first lien mortgage loan underwritten to the same standards as a Conventional Conforming Mortgage Loan except with respect to the original principal balance, which is greater than one million (\$1,000,000) dollars but less than the one million five hundred thousand (\$1,500,000) dollars.

**Super Jumbo Plus:** Unless defined otherwise in the Transactions Terms Letter, a first lien mortgage loan underwritten to the same standards as a Conventional Conforming Mortgage Loan except with respect to the original principal balance, which is greater than one million five hundred thousand

(\$1,500,000) dollars.

**Tangible Net Worth:** With respect to any Person at any date, the excess of the total assets over total liabilities of such Person on such date, each to be determined in accordance with GAAP consistent with those applied in the preparation of Seller's financial statements less the sum of the following (without duplication): (a) the book value of all investments in non-consolidated subsidiaries, and (b) any other assets of Seller and consolidated subsidiaries that would be treated as intangibles under GAAP including, without limitation, good will, research and development costs, trademarks, trade names, copyrights, patents, rights to refunds and indemnification and unamortized debt discount and expenses; provided further that, to the extent not already excluded, there shall be excluded from Tangible Net Worth, those assets of any Person which, if such Person were a HUD mortgagee, would be deemed by HUD to be non-acceptable in calculating adjusted net worth in accordance with its requirements in effect as of such date, as such requirements appear in the "Audit Guide for Use by Independent Public Accountants in Audits of HUD-Approved Nonsupervised Mortgagees, Loan Correspondents and Coinsuring Mortgagees"

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or any successor or replacement audit guide published by HUD. Notwithstanding the foregoing, servicing rights shall be included in the calculation of total assets.

**Total Liabilities:** The sum of (a) the total liabilities of Seller on any given date of determination, to be determined in accordance with GAAP consistent with those applied in the preparation of Seller's financial statements, plus (b) to the extent not already included under GAAP, the total aggregate outstanding amount owed by Seller under any repurchase, refinance or other similar credit arrangements, plus (c) to the extent not already included under GAAP, any "off balance sheet" repurchase, refinance or other similar credit arrangements, less (d) the amount of the "Credit Off Feature," if any, as set forth in the Transactions Terms Letter less (e) if applicable, the aggregate unpaid principal balance of the outstanding Loans sold by Seller to Countrywide CLD under the Early Purchase Program Addendum (the "EPP Addendum") to Loan Purchase Agreement by and between Seller and Countrywide CLD for which the Review Period (as defined in the EPP Addendum) has not been completed.

**Transaction:** A transaction between Buyer and Seller as contemplated under this Agreement.

**Transaction Request Deadline:** That time, as set forth in the Transactions Terms Letter, by which Seller must submit to Buyer certain documents in order to initiate a Transaction.

**Transaction Requirements:** Those terms and conditions, as set forth in the Transactions Terms Letter, applicable to a specific type of Purchased Mortgage Loan.

**Transactions Terms Letter:** The document executed by Buyer and Seller, referencing this Agreement and setting forth certain specific terms, and any additional terms, with respect to this Agreement.

**Type Purchase Price Percentage:** With respect to each type of Purchased Mortgage Loan that corresponds to the Type, the corresponding purchase price percentage, as set forth in the Transactions Terms Letter.

**Type Margin:** With respect to each type of Purchased Mortgage Loan that corresponds to the Type, the corresponding annual rate of interest that shall be added to the Applicable Pricing Rate to determine the annual rate of interest for the related Purchase Price, as set forth in the Transactions Terms Letter.

**Type Sublimit:** Any of the applicable Type Sublimits, as set forth in the Transactions Terms Letter.

**Underwriter Approval:** Written evidence, in form and substance acceptable to Buyer, that a Purchased Mortgage Loan has been underwritten to the satisfaction of the Approved Investor issuing the applicable Purchase Commitment.

**Unused Facility Fee:** A fee, as set forth in the Transactions Terms Letter or otherwise indicated on Buyer's then current schedule of fees, payable by Seller quarterly in arrears based upon the unused portion of the Aggregate Transaction Limit; provided, however, that no fee shall be due if the average difference between the Aggregate Transaction Limit and actual outstanding principal amount of all Transactions, calculated on a daily basis, during such quarter is less than that percent of the Aggregate Transaction Limit set forth in the Transactions Terms Letter.

**VA:** The Department of Veterans Affairs and any successor thereto.

**Warehouse Credit:** The aggregate amount of credit, committed and uncommitted, available to Seller through warehouse lines of credit, repurchase facilities or similar mortgage finance arrangements.

**Wet Deficiency Fee:** That fee, as set forth in the Transactions Terms Letter or otherwise indicated on Buyer's then current schedule of fees, payable by Seller for each calendar day that Seller fails to deliver to Buyer or its Custodian the Mortgage Loan Documents relating to any Wet Mortgage Loan purchased by Buyer following expiration of the Wet Mortgage Loans Maximum Dwell Time.

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**Wet Mortgage Loan:** A Mortgage Loan as to which Buyer purchases from Seller by delivering funds to the applicable Closing Agent prior to receipt by Buyer or its Custodian of the related Mortgage Loan Documents, subject to Seller's obligation to deliver the related Mortgage Loan Documents within the Wet Mortgage Loans Maximum Dwell Time.

**Wet Mortgage Loans Maximum Dwell Time:** That period of time, as set forth in the Transactions Terms Letter, by which Seller must deliver to Buyer or its designee the Mortgage Loan Documents for a Wet Mortgage Loan.

**Wet Mortgage Loans Sublimit:** The maximum aggregate principal amount of Purchased Mortgage Loans that may be Wet Mortgage Loans at any time, as set forth in the Transactions Terms Letter.

**Wire Transfer Fee:** That fee, as set forth in the Transactions Terms Letter or otherwise indicated on Buyer's then current schedule of fees, payable by Seller for each payment of the Purchase Price by wire transfer or for any payment (including the Repurchase Price) received by Buyer from Seller or its Approved Investor.

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**EXHIBIT B**

**IRREVOCABLE CLOSING INSTRUCTIONS**

January 25, 2008

\_\_\_\_\_  
("Closing Agent")

Dear \_\_\_\_\_

**Re: Irrevocable Closing Instructions**

**Closing Protection Letter Issued By, if applicable:** \_\_\_\_\_

Ladies and Gentlemen:

This letter is being sent in accordance with that Master Repurchase Agreement dated as of January 25, 2008 (the "Agreement") between Home Loan Center, Inc. ("Seller") and Countrywide Bank, FSB ("Buyer"), the terms of which do not affect Closing Agent except as set forth herein.

Pursuant to the Agreement, you have been identified as either:

- the title insurer to close and provide title insurance on certain mortgage loans made by Seller; or
- the closing agent to close and fund certain mortgage loans made by Seller and covered by the above referenced closing protection letter (the "Mortgage Loans").

From time to time, Buyer will wire to you, for the account of Seller, funds requested by Seller under the terms of the Agreement to be used by you for the purpose of funding such Mortgage Loan(s) and for no other purpose. Notwithstanding anything to the contrary contained herein, you are not to distribute any of such funds to Seller. You must immediately return the funds representing to Buyer at the following account if one of the following conditions occurs:

- You do not close any Mortgage Loan within forty-eight (48) hours of the time you receive the applicable funds; or
- You receive funds for a Mortgage Loan for which you have not been instructed by Seller to (a) obtain title insurance from the title insurance company specified in the above referenced closing protection letter or (b) underwrite the title insurance.

Bank:	Bank of New York
ABA No.:	021-000018
Account No.:	8900404337
Credit:	Countrywide Bank, FSB – Payoff Account
Reference:	Home Loan Center, Inc.

If the Mortgage Loan Documents (as described below) have not been delivered to Seller prior to the funding of the Transaction, within 48 (forty eight) hours of closing any Mortgage Loan, unless otherwise instructed by Buyer, you must deliver to Seller, the following Mortgage Loan Documents:

- (a) the original mortgage note evidencing the Mortgage Loan, endorsed by Seller in blank, with a complete chain from the originator to Seller;

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- (b) if in your possession, an original assignment in blank executed by Seller for the mortgage or deed of trust securing the mortgage note, in recordable form but unrecorded, with a complete chain of intervening assignments from the originator to Seller;
- (c) a certified copy of the executed mortgage or deed of trust securing the mortgage note; and
- (d) an original or copy of the title insurance policy insuring the first lien or second lien position of the mortgage or deed of trust, as applicable, in at least the original principal amount of the related mortgage note and containing only those exceptions permitted by the purchase commitment, as set forth in the final closing instructions referred to below, or an unconditional commitment to issue such a title insurance policy, or a preliminary report and instructions received from Seller relating to the issuance of such a title insurance policy,

With respect to each Mortgage Loan for which you act as Closing Agent, Seller will deliver to you final closing instructions specific to such Mortgage Loan. In the event that the terms of the final closing instructions contradict the terms of these irrevocable closing instructions, the terms of these irrevocable closing instructions shall govern. Permission to change the scheduled closing date for any Mortgage Loan beyond the time permitted herein or permission to otherwise deviate from these irrevocable closing instructions must be furnished to you in a writing signed by Buyer and Seller.







**WAREHOUSE LENDING**

**COUNTRYWIDE BANK, FSB**  
8511 FALLBROOK AVE  
WH-51F  
WEST HILLS, CA 91304  
(800) 669-2955

June 25, 2008

Home Loan Center, Inc.  
163 Technology Drive  
Irvine, CA 92618  
Attn: Rian Furey, Senior Vice President

**Re: Spinoff of InterActive Corporation**

Ladies and Gentlemen:

This notice is issued in reference to that certain Transactions Terms Letter dated January 25, 2008 (the "Transactions Terms Letter") and (b) that certain Master Repurchase Agreement dated January 25, 2008 (the "Agreement"), both by and between Countrywide Bank, FSB ("Buyer") and Home Loan Center, Inc. ("Seller") (the Transactions Terms Letter and the Agreement, jointly, the "Repurchase Agreement"). Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Repurchase Agreement.

Pursuant to the "Term" section of the Transactions Terms Letter, the Term of the Repurchase Agreement expires on the earlier of (a) January 24, 2009 or (b) 60 days prior to an initial public offering, reorganization, spinoff or similar transaction involving InterActive Corporation. Seller has notified Buyer of a pending spinoff involving InterActive Corporation and has requested that the Term of the Repurchase Transaction not expire as a result thereof. As an accommodation to Seller, Buyer hereby agrees that the Term of the Repurchase Agreement shall not expire upon the occurrence of the spinoff of InterActive Corporation and Buyer agrees to continue to enter into Transactions with Seller under the Repurchase Agreement pursuant to its terms and conditions; provided, however, that if Buyer determines at any time prior to January 24, 2009 that such spinoff materially and adversely affects Seller, Buyer reserves the right to deem the Repurchase Agreement expired prior to such date.

Sincerely,

/s/ Richie Walia  
Richie Walia  
Senior Vice President

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**Tree.com, Inc.**  
**Deferred Compensation Plan for Non-Employee Directors**

1. **Purpose.** The purpose of the Tree.com, Inc. Deferred Compensation Plan for Non-Employee Directors (the “Plan”) is to provide non-employee directors of Tree.com, Inc. (or any successor thereto) (the “Company”) with an opportunity to defer Director Fees (as defined in paragraph 4(b) below).
2. **Effective Date.** The Plan shall become effective on August      , 2008, subject to approval by the Company’s Board of Directors (the “Board”).
3. **Eligibility.** Any director of the Company who is not an employee of the Company or of any subsidiary or affiliate of the Company is eligible to participate in the Plan.
4. **Election to Defer Compensation.**
  - (a) **Time of Eligibility.** An election to defer Director Fees by a newly elected director shall be made by such director within the 30-day period following his or her election to the Board, which election shall apply only to Director Fees earned for services performed *after* the date of such election. A director who has either (i) not previously elected to defer Director Fees or (ii) discontinued (or wishes to modify) a prior election to defer Director Fees may elect to defer Director Fees (or modify an existing deferral election) by giving written notice to the Company on or prior to November 1 of each year (or such other date as may be determined from time to time by the Secretary of the Company in accordance with paragraph 10 of the Plan and in compliance with applicable law). Any such election shall only apply to Director Fees earned for services performed during the calendar year *following* such written notice. The effectiveness of a given election shall continue until the participant’s “separation from service,” as defined under Section 409A of the Internal Revenue Code of 1986, as amended (the “Code”) and Treasury Regulation §1.409A, from the Company and any entity that would be treated as a single employer with the Company under Section 414(b) or 414(c) of the Code (a “Separation from Service”) or until the end of the calendar year during which the director gives the Company written notice of its discontinuance or modification, whichever shall occur first. Any notice of discontinuance or modification shall operate prospectively from the first day of the calendar year following the receipt of such written notice by the Secretary of the Company, and Director Fees payable during any subsequent calendar year shall either be paid (absent any timely future deferral election) or deferred in accordance with the terms of the discontinuance or modified election, as applicable; *provided, however*, that Director Fees theretofore deferred shall continue to be withheld and shall be paid in accordance with the notice of election pursuant to which they were withheld. All written notices regarding deferral elections and/or the discontinuance or modification of prior deferral elections shall be made on a form prescribed by the Company.
  - (b) **Amount of Deferral.** A participant may elect to defer receipt of all or a specified portion of the cash fees receivable by such director for services performed as a

director of the Company (which amounts shall include fees for services as a member of one or more Committee(s) of the Board and meeting attendance fees, if any (among other fees), as and if applicable from time to time) that are otherwise payable to the director in cash (the “Director Fees”).

- (c) **Manner of Electing Deferral.** A participant shall elect to defer Director Fees by giving written notice to the Company in a form prescribed by the Company. Such notice shall include:
  - (i) the percentage or amount of Director Fees to be deferred (the “Deferred Fees”);
  - (ii) the allocation of the Deferred Fees between the “Cash Fund” or “Share Units,” and
  - (iii) in the case of a participant’s initial election only, an election of a lump-sum payment or of a number of annual installments (not to exceed five) for the payment of the Deferred Fees (plus the amounts (if any) credited under Section 5), with such lump-sum payment or the first installment payment occurring on the later of (A) the calendar year following the calendar year in which the participant’s Separation from Service occurs (but not earlier than January 15<sup>th</sup> of such year) or (B) the first day of the seventh month following the date on which the participant’s Separation from Service occurs (and otherwise in compliance with applicable law), with any successive annual installment payments to be made not earlier than January 15<sup>th</sup> of each such year. Any payment election made by a participant in connection with his or her initial election to participate in the Plan shall apply to all Deferred Fees, whether covered by the initial deferral election or a subsequent deferral election; *provided, however*, that this paragraph 4(c)(iii) shall not preclude subsequent modifications to the payment election described immediately above that are made in connection with a participant’s Separation from Service and in compliance with paragraph (d) below.
- (d) A participant may change his or her payment election in accordance with the following requirements:
  - (i) Subject to clauses (ii) and (iii) of this paragraph (d), such election may not take effect until the twelve (12) month anniversary of the date the election is made and filed with the Secretary of the Company using a form prescribed by the Company;
  - (ii) Such lump-sum payment or the first installment payment shall not be made less than five (5) years after the date that the participant’s Deferred Fees (plus the amounts (if any) credited under Section 5) would have been paid pursuant to paragraph (c)(iii) above (or such later year if a prior modification was made pursuant to this paragraph); and

(iii) Any new election shall not be effective unless made at least twelve (12) months prior to the year in which the payment of the Deferred Fees (plus the amounts (if any) credited under Section 5) would otherwise commence.

5. Deferred Compensation Account. The Company shall establish a book-entry account for each participant to record the participant's Deferred Fees (the "Account").

(a) For Deferred Fees allocated by the participant to the Cash Fund:

(i) at the time the Director Fees would otherwise have been payable, the Account will be credited with the amount of the Deferred Fees, receipt of which the participant has elected to defer, and

(ii) at the end of each calendar year or terminal portion of a year, the Account will be credited with deemed interest, at an annual rate equivalent to the weighted average prime or base lending rate of JP Morgan Chase Bank (including any successor thereto or such other financial institution that may be selected from time to time by the Secretary of the Company in accordance with paragraph 10 of the Plan and in accordance with applicable law) for the relevant year or portion thereof (the "Interest Equivalents"), upon the average daily balance in the Account during such year or portion thereof.

(b) For Deferred Fees allocated by the participant to Share Units:

(i) at the time the Director Fees would otherwise have been payable, (A) the Account will be credited with the amount of the Deferred Fees, receipt of which the participant has elected to defer and (B) such amount of Deferred Fees shall be converted on such date to a number of "Share Units" (computed to the nearest 1/1000 of a share) equal to the number of shares of common stock, par value \$.01 per share ("Common Stock"), of the Company that theoretically could have been purchased on such date with such amount of Deferred Fees, using the closing price for the Common Stock on such date (or, if such date is not a trading day, on the next preceding trading day) on The Nasdaq Stock Market's National Market System ("Nasdaq") or, if the Common Stock is not then listed or quoted on Nasdaq, the principal stock exchange on which the Common Stock is then traded;

(ii) on each date on which a dividend is paid on the Common Stock, the Account will be credited with the number of Share Units (computed to the nearest 1/1000 of a share) which theoretically could have been purchased with the amount of dividends payable on the number of shares of Common Stock equal to the number of Share Units in the participant's Account immediately prior to the payment of such dividend; the number of additional Share Units shall be calculated as in paragraph 5(b)(i) above, provided that, with respect to dividends paid in kind, the amount of such dividend shall be determined based on the fair

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market value of such dividend on the date of the dividend distribution (which, if such dividend is a security that is then traded on a stock exchange, the fair market value of such security shall be the closing price on such date of the security on the principal stock exchange on which the security is then traded (or, if such date is not a trading day, on the next trading day); and

(iii) on the date of the occurrence of any event described in paragraph 7(d) below, the Account will be credited with the number of Shares Units necessary for an equitable adjustment, which adjustment shall be determined in accordance with paragraphs 7(d) and 10 of the Plan and in accordance with applicable law.

(c) Unless otherwise determined by the Secretary of the Company in accordance with paragraph 10 of the Plan and in accordance with applicable law, Deferred Fees shall be payable (and related amounts credited to participant Accounts) on a quarterly basis. Each payment shall be classified as a "separate payment" under Section 409A of the Code.

6. Value of Deferred Compensation Accounts. The value of each participant's Account on any date shall consist of (a) in the case of the Cash Fund, the sum of the Deferred Fees credited in accordance with paragraph 5 above and the Interest Equivalents credited through such date, if any, and (b) in the case of the Share Units, the market value of the corresponding number of shares of Common Stock on such date, determined using the closing price for the Common Stock on such date (or, if such date is not a trading day, on the next preceding trading day) on Nasdaq, or if the Common Stock is not then listed or quoted on Nasdaq, the principal stock exchange on which the Common Stock is then traded. A participant's Account shall be credited with Interest Equivalents or additional Share Units, if any, as applicable for so long as there is an outstanding balance credited to the Participant's Account.

7. Payment of Deferred Compensation. No payment shall be made from a participant's Account except as follows:

(a) The balance of Deferred Fees and Interest Equivalents in a participant's Account credited to the Cash Fund shall be paid in cash in the manner elected in accordance with the provisions of paragraph 4(c) above. If annual installments are elected, the amount of the first payment shall be a fraction of the balance in the participant's Account as of the December 31 of the year preceding such payment, the numerator of which is one and the denominator of which is the total number of annual installments elected. The amount of each subsequent payment shall be a fraction of the balance in the participant's Account as of December 31 of the year preceding each subsequent payment, the numerator of which is one and the denominator of which is the total number of installments elected minus the number of installments previously paid. Each payment pursuant to this paragraph 7(a) shall include Interest Equivalents, but only on the amount being paid, from the preceding December 31 to the date of payment.

(b) The balance in a participant's Account credited to Share Units shall be paid in the number of actual shares of Common Stock equal to the whole number of

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Share Units in the participant's Account. If annual installments are elected, the whole number of shares of Common Stock in the first payment shall be a fraction of the number of Share Units in the participant's Account as of December 31 of the year preceding such payment, the numerator of

which is one and the denominator of which is the total number of annual installments elected. The whole number of shares of Common Stock in each subsequent payment shall be a fraction of the Share Units in the participant's Account as of December 31 of the year preceding each subsequent payment, the numerator of which is one and the denominator of which is the total number of installments elected minus the number of installments previously paid. If annual installments are elected, cash payments in lieu of fractional shares of Common Stock issuable in respect of fractional Share Units, if applicable, shall be made with the last payment.

(c) Notwithstanding the election of the participant pursuant to paragraph 4(c), in the event of a participant's death while a director, "conflict of interest" within the meaning of Treasury Regulation Section 1.409A-3(j)(4)(iii), or "disability" within the meaning of Treasury Regulation Section 1.409A-3(i)(4), the balance in the participant's Account (in the case of the Cash Fund, including Interest Equivalents in relation to the elapsed portion of a year) shall be determined as of such date of death, conflict of interest or disability, and such balance shall be paid in one lump-sum payment in cash in the case of the Cash Fund or in actual shares of Common Stock in the case of Share Units to the participant or the participant's estate, as the case may be, as soon as reasonably practicable thereafter (and otherwise in compliance with applicable law and Section 409A of the Code) but in no event later than the later of the last day of such calendar year in which the death, conflict of interest or disability occurred or ninety (90) days following the occurrence of the death, conflict of interest or disability.

(d) In the event of any merger, consolidation, acquisition of property or shares, stock rights offering, liquidation, disaffiliation, or similar event affecting the Company or any of its subsidiaries, the Board or the Compensation and Human Resources Committee (or such other Committee as the Board may from time to time designate) (the "Committee") may make such equitable substitutions or adjustments in the aggregate number of Share Units in a participant's Account, in the form or type of property represented by such Share Units and in the number and kind of shares reserved for issuance as the Board or the Committee deems appropriate. In the event of a stock dividend, stock split, reverse stock split, separation, spinoff, reorganization, extraordinary dividend of cash or other property, share combination, or recapitalization or similar event affecting the capital structure of the Company, the Committee or the Board shall make such substitutions or adjustments as it deems appropriate and equitable to the aggregate number of Share Units in a participant's Account, in the form or type of property represented by such Share Units and in the number and kind of shares reserved for issuance. Any successor corporation or other acquirer of the Company shall be required to assume the Company's obligations hereunder and substitute an appropriate number of shares of stock or other equity measure of such successor entity for Share Units.

8. Participant's Rights Unsecured. The right of a participant to receive any unpaid portion of the participant's Account, whether the Cash Fund or Share Units, shall be an unsecured claim against the general assets of the Company.

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9. Nonassignability. The right of a participant to receive any unpaid portion of the participant's Account shall not be assigned, transferred, pledged or encumbered or be subject in any manner to alienation or anticipation.

10. Administration. This Plan shall be administered by the Secretary of the Company, who shall have the authority to adopt rules and regulations for carrying out the Plan and to interpret, construe and implement the provisions thereof.

11. Stock Subject to Plan. The total number of Share Units that may be credited to the Accounts of all eligible directors, and the total number of shares of Common Stock reserved and available for issuance, under the Plan shall be 100,000.

12. Conditions Upon Issuance of Common Stock. Shares of Common Stock shall not be issued pursuant to the Plan unless the issuance and delivery of such shares pursuant hereto shall comply with all relevant provisions of law, including, without limitation, the Securities Act of 1933, as amended, the Securities Exchange Act of 1934, as amended, the rules and regulations promulgated thereunder, and the requirements of any stock exchange upon which the shares of Common Stock may then be listed, and shall be further subject to the approval of counsel for the Company with respect to such compliance.

13. Amendment and Termination. This Plan may be amended, modified or terminated at any time by the Committee or the Board; *provided, however,* that no such amendment, modification or termination shall, without the consent of a participant, adversely affect such participant's rights with respect to amounts theretofore accrued to the participant's Account and any amendment or termination of the Plan shall be effected in accordance with the requirements of Section 409A of the Code.

14. Section 409A of the Code.

(a) The terms and conditions of the Plan are intended to comply (and shall be interpreted in accordance) with Section 409A of the Code and the regulations thereunder.

(b) No action shall be taken under the Plan that will cause any Account to fail to comply in any respect with Section 409A of the Code without the written consent of the participant.

(c) Any adjustments to Share Units and/or cash payments made pursuant to paragraph 7(d) shall be made (i) in compliance with the requirements of Section 409A of the Code and (ii) in such a manner as to ensure that after such adjustment and/or cash payment, the Share Units or Deferred Fees to be paid comply with the requirements of Section 409A of the Code.

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## Subsidiaries of Tree.com, Inc.

Name	Jurisdiction of Formation
Tree Preferred Corp.	DE
LendingTree, LLC	DE
Home Loan Center, Inc.	CA
HLC Escrow, Inc.	CA
LendingTree Settlement Services, LLC	DE
LendingTree Alabama Title Services, LLC	AL
LT Real Estate, Inc.	DE
RealEstate.com Oregon, LLC	OR
Robin Acquisition Corp.	DE
InterNest, Inc.	DE
iNest Realty, Inc.	IL
iNest Realty Minnesota, Inc.	MN

**Consent of Independent Registered Public Accounting Firm**

We consent to the reference to our firm under the caption "Experts" and to the use of our report dated May 5, 2008 in the Registration Statement (Form S-1 No. 333-00000) and related Prospectus of Tree.com, Inc. dated August 1, 2008.

/s/ Ernst & Young LLP

Los Angeles, California  
July 31, 2008

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## QuickLinks

[Exhibit 23.1](#)

[Consent of Independent Registered Public Accounting Firm](#)

**CONSENT TO BEING NAMED AS A PROSPECTIVE DIRECTOR**

As required by Rule 438 under the Securities Act of 1933, as amended, I hereby consent to the reference to my name as a prospective director of Tree.com (the "Registrant") in the section entitled "Management of Tree.com" in the prospectus forming a part of a registration statement on Form S-1 to be filed by the Registrant with the U.S. Securities and Exchange Commission, as amended from time to time.

/s/Peter C. Horan

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**CONSENT TO BEING NAMED AS A PROSPECTIVE DIRECTOR**

As required by Rule 438 under the Securities Act of 1933, as amended, I hereby consent to the reference to my name as a prospective director of Tree.com (the "Registrant") in the section entitled "Management of Tree.com" in the prospectus forming a part of a registration statement on Form S-1 to be filed by the Registrant with the U.S. Securities and Exchange Commission, as amended from time to time.

/s/ Joseph Levin

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**CONSENT TO BEING NAMED AS A PROSPECTIVE DIRECTOR**

As required by Rule 438 under the Securities Act of 1933, as amended, I hereby consent to the reference to my name as a prospective director of Tree.com (the "Registrant") in the section entitled "Management of Tree.com" in the prospectus forming a part of a registration statement on Form S-1 to be filed by the Registrant with the U.S. Securities and Exchange Commission, as amended from time to time.

/s/Lance Melber

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**CONSENT TO BEING NAMED AS A PROSPECTIVE DIRECTOR**

As required by Rule 438 under the Securities Act of 1933, as amended, I hereby consent to the reference to my name as a prospective director of Tree.com (the "Registrant") in the section entitled "Management of Tree.com" in the prospectus forming a part of a registration statement on Form S-1 to be filed by the Registrant with the U.S. Securities and Exchange Commission, as amended from time to time.

/s/Steven Ozonian

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[ ]

Dear IAC/InterActiveCorp Stockholder:

I am pleased to inform you that on July 1, 2008, the Board of Directors of IAC/InterActiveCorp approved the spin-offs of HSN, Inc., Interval Leisure Group, Inc., Ticketmaster and Tree.com, Inc. (each, a "Spinco" and collectively, the "Spinco's") via the distribution of all of the outstanding shares of common stock of each Spinco to IAC's stockholders. As a result of the spin-offs, IAC will be separated into five separate, publicly traded companies.

At the time of the spin-offs, the Spinco's will collectively hold all of the assets and liabilities associated with IAC's Retailing, Interval, Ticketmaster, Lending and Real Estate segments. We believe that the separation of these businesses will over time enhance their operating performance, provide each of them with a liquid equity currency linked directly to its businesses, open up strategic alternatives that may otherwise not have been readily available to them and facilitate investor understanding and better target investor demand. We expect the spin-offs of each of the Spinco's to occur simultaneously, unless otherwise determined by IAC's Board of Directors. Immediately after each spin-off, IAC stockholders will own 100% of the common stock of the company being distributed.

The spin-offs of each of the Spinco's will occur on [ ], 2008 by way of a pro rata dividend to IAC stockholders, unless otherwise determined by IAC's board of directors. Each IAC stockholder will be entitled to receive one-fifth of a share of common stock of HSN, Inc., one-fifth of a share of common stock of Interval Leisure Group, Inc., one-fifth of a share of common stock of Ticketmaster and one-thirtieth of a share of common stock of Tree.com, Inc. for every share of IAC common stock and/or Class B common stock held by such stockholder at the close of business on July 1, 2008, the record date for the spin-offs. IAC will not distribute any fractional shares of common stock of the Spinco's to its stockholders, as more fully described in the accompanying prospectus. Stockholder approval of the spin-offs is not required, nor are you required to take any action to receive your shares of common stock of the Spinco's.

The enclosed prospectus, which is being mailed to all IAC stockholders, describes the spin-offs of the common stock of each of the Spinco's in detail and contains important information about each of the Spinco's. We urge you to read this information statement carefully.

I want to thank you for your continued support of IAC, and each of the Spinco's looks forward to your support in the future.

Sincerely,

Barry Diller  
*Chairman of the Board and Chief Executive Officer*

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## Tree.com, Inc. and Subsidiaries

## Consolidated Statements of Operations

Year Ended December 31, 2007

(In thousands)

	Quarter Ended March 31 (unaudited)	Quarter Ended June 30 (unaudited)	Quarter Ended September 30 (unaudited)	Quarter Ended December 31 (unaudited)
Revenue	\$ 109,999	\$ 110,639	\$ 74,953	\$ 50,787
Cost of revenue (exclusive of depreciation shown separately below)	20,496	20,942	18,279	13,397
Gross margin	89,503	89,697	56,674	37,390
Selling and marketing expense	56,478	56,852	43,755	30,527
General and administrative expense	30,046	27,514	23,166	18,518
Product development	4,270	3,896	3,844	2,981
Proceeds from a legal settlement	—	—	(15,000)	—
Amortization of intangibles	4,274	6,013	3,993	20,189
Restructuring expense	—	4,598	6,401	11,868
Depreciation	2,839	2,580	2,431	2,208
Goodwill impairment	—	—	—	459,463
Operating loss	(8,404)	(11,756)	(11,916)	(508,364)
Other income (expense):				
Interest income	70	207	368	526
Interest expense	(280)	(241)	(236)	(229)
Other income	1	—	13	—
Total other (expense) income, net	(209)	(34)	145	297
Loss before income taxes	(8,613)	(11,790)	(11,771)	(508,067)
Income tax benefit (provision)	3,490	4,298	5,478	(23,427)
<b>Net loss</b>	<b>\$ (5,123)</b>	<b>\$ (7,492)</b>	<b>\$ (6,293)</b>	<b>\$ (531,494)</b>

Non-cash compensation expense is included in the following line items in the consolidated statements of operations:

Cost of revenue	\$ 79	\$ 97	\$ 85	\$ (13)
Selling and marketing expense	85	107	93	(13)
General and administrative expense	956	1,153	295	(1)
Product development	1	1	—	—
<b>Total non-cash compensation expense</b>	<b>\$ 1,121</b>	<b>\$ 1,358</b>	<b>\$ 473</b>	<b>\$ (27)</b>

## Tree.com, Inc. and Subsidiaries

## Consolidated Statements of Operations (Continued)

Year Ended December 31, 2007

(In thousands)

	Quarter Ended March 31 (unaudited)	Six Months Ended June 30 (unaudited)	Nine Months Ended September 30 (unaudited)	Year Ended December 31 (audited)
Revenue	\$ 109,999	\$ 220,638	\$ 295,591	\$ 346,378
Cost of revenue (exclusive of depreciation shown separately below)	20,496	41,438	59,717	73,114
Gross margin	89,503	179,200	235,874	273,264
Selling and marketing expense	56,478	113,330	157,085	187,612
General and administrative expense	30,046	57,560	80,726	99,244
Product development	4,270	8,166	12,010	14,991
Proceeds from a legal settlement	—	—	(15,000)	(15,000)
Amortization of intangibles	4,274	10,287	14,280	34,469
Restructuring expense	—	4,598	10,999	22,867
Depreciation	2,839	5,419	7,850	10,058
Goodwill impairment	—	—	—	459,463
Operating loss	(8,404)	(20,160)	(32,076)	(540,440)
Other income (expense):				
Interest income	70	277	645	1,171
Interest expense	(280)	(521)	(757)	(986)
Other income	1	1	14	14
Total other expense, net	(209)	(243)	(98)	199

Loss before income taxes	(8,613)	(20,403)	(32,174)	(540,241)
Income tax benefit (provision)	3,490	7,788	13,266	(10,161)
<b>Net loss</b>	<u>\$ (5,123)</u>	<u>\$ (12,615)</u>	<u>\$ (18,908)</u>	<u>\$ (550,402)</u>

Non-cash compensation expense is included in the following line items in the consolidated statements of operations:

Cost of revenue	\$ 79	\$ 176	\$ 261	\$ 248
Selling and marketing expense	85	192	285	272
General and administrative expense	956	2,109	2,404	2,403
Product development	1	2	2	2
<b>Total non-cash compensation expense</b>	<u>\$ 1,121</u>	<u>\$ 2,479</u>	<u>\$ 2,952</u>	<u>\$ 2,925</u>

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**Tree.com, Inc. and Subsidiaries**

**Consolidated Statements of Operations**

**Year Ended December 31, 2006**

(In thousands)

	Quarter Ended March 31 (unaudited)	Quarter Ended June 30 (unaudited)	Quarter Ended September 30 (unaudited)	Quarter Ended December 31 (unaudited)
Revenue	\$ 122,658	\$ 120,747	\$ 120,230	\$ 112,843
Cost of revenue (exclusive of depreciation shown separately below)	17,909	18,837	19,386	17,085
Gross margin	104,749	101,910	100,844	95,758
Selling and marketing expense	60,293	58,094	52,473	48,050
General and administrative expense	28,920	28,711	30,560	31,093
Product development	3,890	3,547	3,879	3,852
Amortization of intangibles	7,266	7,284	5,157	4,311
Depreciation	3,458	2,819	2,964	2,469
Operating income	922	1,455	5,811	5,983
Other income (expense):				
Interest income	107	89	136	975
Interest expense	(419)	(388)	(378)	(371)
Other income (expense)	—	9	(212)	(4)
Total other (expense) income, net	(312)	(290)	(454)	600
Earnings before income taxes	610	1,165	5,357	6,583
Income tax provision	(224)	(419)	(2,117)	(2,262)
<b>Net income</b>	<u>\$ 386</u>	<u>\$ 746</u>	<u>\$ 3,240</u>	<u>\$ 4,321</u>

Non-cash compensation expense is included in the following line items in the consolidated statements of operations:

Cost of revenue	\$ 54	\$ 71	\$ 72	\$ 66
Selling and marketing expense	59	79	78	73
General and administrative expense	(1,059)	741	989	932
Product development	20	—	1	1
<b>Total non-cash compensation expense</b>	<u>\$ (926)</u>	<u>\$ 891</u>	<u>\$ 1,140</u>	<u>\$ 1,072</u>

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**Tree.com, Inc. and Subsidiaries**

**Consolidated Statements of Operations (Continued)**

**Year Ended December 31, 2006**

(In thousands)

	Quarter Ended March 31 (unaudited)	Six Months Ended June 30 (unaudited)	Nine Months Ended September 30 (unaudited)	Year Ended December 31 (audited)
Revenue	\$ 122,658	\$ 243,405	\$ 363,635	\$ 476,478
Cost of revenue (exclusive of depreciation shown separately below)	17,909	36,746	56,132	73,217
Gross margin	104,749	206,659	307,503	403,261
Selling and marketing expense	60,293	118,387	170,860	218,910
General and administrative expense	28,920	57,631	88,191	119,284

Product development	3,890	7,437	11,316	15,168
Amortization of intangibles	7,266	14,550	19,707	24,018
Depreciation	3,458	6,277	9,241	11,710
Operating income	922	2,377	8,188	14,171
Other income (expense):				
Interest income	107	196	332	1,307
Interest expense	(419)	(807)	(1,185)	(1,556)
Other income (expense)	—	9	(203)	(207)
Total other expense, net	(312)	(602)	(1,056)	(456)
Earnings before income taxes	610	1,775	7,132	13,715
Income tax provision	(224)	(643)	(2,760)	(5,022)
<b>Net income</b>	<u>\$ 386</u>	<u>\$ 1,132</u>	<u>\$ 4,372</u>	<u>\$ 8,693</u>

Non-cash compensation expense is included in the following line items in the consolidated statements of operations:

Cost of revenue	\$ 54	\$ 125	\$ 197	\$ 263
Selling and marketing expense	59	138	216	289
General and administrative expense	(1,059)	(318)	671	1,603
Product development	20	20	21	22
Total non-cash compensation expense	<u>\$ (926)</u>	<u>\$ (35)</u>	<u>\$ 1,105</u>	<u>\$ 2,177</u>