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

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 OR 15(d) of The Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): August 1, 2011

HARBINGER GROUP INC.

(Exact name of registrant as specified in its charter)

Delaware	**1-4219**	**74-1339132**
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)

450 Park Avenue, 27th Floor, New York, New York	**10022**
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: **(212) 906-8555**

Former name or former address, if changed since last report.

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

o Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

o Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

o Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

o Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01 Entry into a Material Definitive Agreement.

Securities Purchase Agreement

On August 1, 2011, Harbinger Group Inc. (the "Company") entered into a Securities Purchase Agreement (the "Securities Purchase Agreement") with Quantum Partners LP, a Cayman Islands exempted limited partnership ("Quantum"), JHL Capital Group Master Fund L.P., a Cayman Islands exempted limited partnership (the "JHL Purchaser"), and certain funds and/or accounts managed and/or advised by DDJ Capital Management, LLC (collectively, the "DDJ Purchasers" and together with the Quantum and the JHL Purchaser, the "Initial Purchasers"). On August 4, 2011, the Company entered into the First Amendment to Securities Purchase Agreement (the "First Amendment to Securities Purchase Agreement") with the Initial Purchasers and Luxor Capital Partners, LP, a Delaware limited partnership, Luxor Wavefront, LP, a Delaware limited partnership, Luxor Capital Partners Offshore Fund, LP, a Cayman Islands limited partnership, OC 19 Master Fund, L.P. - LCG, a Cayman Islands limited partnership, and GAM Equity Six Inc., a British Virgin Islands company (collectively, the "Luxor Purchasers," and together with the Initial Purchasers, the "Purchasers") in order for the Luxor Purchasers to be joined as an Initial Purchaser under the Securities Purchase Agreement. Pursuant to the Securities Purchase Agreement, as amended, the Company agreed to sell an aggregate of 120,000 shares of Series A-2 Participating Convertible Preferred Stock of the Company (the "Preferred Stock") to the Purchasers at a purchase price of $1,000 per share (the "Purchase Price"), resulting in aggregate gross proceeds to the Company of $120 million (the "Private Placement"). The proceeds will be used for general corporate purposes, which may include acquisitions and other investments. All conditions to closing that by their terms are to be satisfied prior to closing were satisfied and the funding of the transaction occurred on August 5, 2011 (the "Closing Date").

Each share of Preferred Stock is initially convertible at a conversion price of $7.00, which is subject to adjustment for dividends, certain distributions, stock splits, combinations, reclassifications, reorganizations, recapitalizations and similar events, as well as in connection with issuances of common stock of the Company (the "Common Stock") (and securities convertible or exercisable for Common Stock) below the Conversion Price (which adjustment shall be made on a weighted average basis) (the "Conversion Price").

This Current Report on Form 8-K is not an offer to sell or a solicitation of offers to buy Preferred Stock. The Preferred Stock have not been registered under the Securities Act of 1933, as amended (the "Securities Act") and may not be offered or sold in the United States absent an effective registration statement or an exemption from the registration requirements under applicable federal and state securities laws.

The Company made certain customary representations and warranties concerning the Company and its subsidiaries and provided customary indemnities to the Purchasers.

This description of the Securities Purchase Agreement, as amended, is qualified in its entirety by reference to the Securities Purchase Agreement and the First Amendment to the Securities Purchase Agreement, copies of which are attached to this Current Report on Form 8-K as Exhibits 10.1 and 10.2, respectively, and are incorporated herein by reference.

The Securities Purchase Agreement, as amended, contains a number of representations and warranties which the Company and the Purchasers have made to each other. The assertions embodied in those representations and warranties are qualified by information in a confidential disclosure letter that the Company and the Purchasers have exchanged in connection with signing the Securities Purchase Agreement. This disclosure contains information that has been included in the general prior public disclosures of the Company, as well as additional non-public information. While we do not believe that this non-public information is required to be publicly disclosed by the Company under the applicable securities laws, that information does modify, qualify and create exceptions to the representations and warranties set forth in the Securities Purchase Agreement. In addition, these representations and warranties were made as of August 1, 2011. Information concerning the subject matter of the representations and warranties may have changed since August 1, 2011, which subsequent information may or may not be fully reflected in the public disclosures of the Company. Moreover, representations and warranties are frequently utilized in Securities Purchase Agreement as a means of allocating risks, both known and unknown, rather than to make affirmative factual claims or statements. Accordingly, persons not party to the Securities Purchase Agreement should not rely on it for any current characterization of factual information about the Company or the Purchasers.

Preferred Stock

The following summary of the terms of the Preferred Stock is qualified in its entirety by reference to the Form of Certificate of Designation of Series A-2 Participating Convertible Preferred Stock of Harbinger Group Inc., which was filed with the Delaware Secretary of State on the Closing Date (the "Certificate of Designation"), a form of which is attached to this Current Report on Form 8-K as Exhibit 4.1 and is incorporated herein by reference.

Dividends. The Preferred Stock will accrue a cumulative quarterly cash dividend at an annualized rate of 8%. The Purchase Price of the Preferred Stock will accrete quarterly at an annualized rate of 4% that will be reduced to 2% or 0% if the Company achieves specified rates of growth measured by increases in its net asset value. The Preferred Stock is also entitled to participate in cash and in-kind distributions to holders of shares of Common Stock on an as converted basis.

Optional Conversion. Each share of Preferred Stock may be converted by the holder into Common Stock at any time based on the then applicable Conversion Price. Until certain regulatory filings are made and approvals are obtained, Preferred Stock may not be converted if upon such conversion the holder's beneficial ownership would exceed certain thresholds.

Automatic Conversion/Mandatory Redemption. On the seventh anniversary of May 13, 2011 (the "Maturity Date"), holders of the Preferred Stock shall be entitled to cause the Company to redeem the Preferred Stock at the Purchase Price per share plus accrued but unpaid dividends. Each share of Preferred Stock that is not so redeemed will be automatically converted into shares of Common Stock at the Conversion Price then in effect.

Upon a change of control (as defined in the Certificate of Designation) holders of the Preferred Stock shall be entitled to cause the Company to redeem its Preferred Stock at a price per share of Preferred Stock equal to the sum of 101% of the Purchase Price and any accrued and unpaid dividends, including accrued and unpaid cash and accreting dividends for the then current dividend period.

Optional Redemption. At any time on or after the third anniversary of May 13, 2011, the Company may redeem the Preferred Stock, in whole but not in part, at a price per share equal to 150% of the Purchase Price plus accrued but unpaid dividends, subject to the holder's right to convert prior to such redemption.

Mandatory Conversion. On or after the third anniversary of May 13, 2011, the Company may force conversion of the Preferred Stock into Common Stock if the thirty day volume weighted average price of the Company's Common Stock ("VWAP") and the daily VWAP exceeds 150% of the then applicable Conversion Price of the Company's Series A Participating Convertible Preferred Stock for at least twenty trading days out of the thirty trading day period used to calculate the thirty day VWAP. In the event of a forced conversion, the holders of Preferred Stock will have the ability to elect cash settlement in lieu of conversion if certain market liquidity thresholds for the common stock are not achieved.

Liquidation Preference. In the event of any liquidation or winding up of the Company, the holders of Preferred Stock will be entitled to receive per share the greater of (i) 150% of the Purchase Price, plus any accrued and unpaid dividends and (ii) the value that would be received if the share of Preferred Stock were converted into Common Stock immediately prior to the liquidation or winding up.

Participation Rights. Prior to the fifth anniversary of the Issue Date, subject to meeting certain ownership thresholds, certain Purchasers will be entitled to participate, on a pro rata basis in accordance with their ownership percentage, determined on an as converted basis, in issuances of equity and equity linked securities by the Company.

Tag-Along Rights Amendment. As an inducement to the Purchasers, Harbinger Capital Partners Master Fund I, Ltd., Harbinger Capital Partners Special Situations Fund, L.P. and Global Opportunities Breakaway Ltd. (together, the "Controlling Stockholders") and CF Turul LLC (the "Fortress Purchaser"), Wilton Re Holdings Limited (the "Wilton Purchaser"), PECM Strategic Funding L.P., Providence TMT Debt Opportunity Fund II, L.P. (and together with PECM Strategic Funding L.P., each a "PECM Purchaser" and collectively, the "PECM Purchasers", and together with the Fortress Purchaser and the Wilton Purchaser, the "Existing Purchasers"), will, on the Closing Date, amend and restate the tag-along agreement entered into in connection with the sale of Series A Convertible Preferred Stock and agreed to, among other things, grant the Purchasers tag-along rights with respect to private sales of common stock, subject to certain terms and conditions including minimum ownership thresholds for the Purchasers on the same terms as the Existing Purchasers. The Company will not be party to such agreement.

Voting Rights. The holders of the shares of the Preferred Stock will be entitled to vote on an as-converted basis with the Company's holders of Common Stock on all matters submitted to a vote of the holders of Common Stock for all purposes. Notwithstanding the foregoing, until approval is obtained from certain insurance regulatory authorities, no holder may, at any time, vote more than 9.9% of the total number of votes which may be cast in a general election of a director of the Company.

Consent Rights. Consent of the holders of Preferred Stock is required before any fundamental change can be made to the Preferred Stock, including changes to the terms of the Preferred Stock with respect to liquidation preference, dividend, or redemption rights. Consent of the holders of a majority of Preferred Stock is required before, subject to certain exceptions, any material action may be taken with respect to the Preferred Stock including issuing stock senior or pari passu to the Preferred Stock and incurring debt, or permitting a subsidiary to incur debt or selling assets or permitting a subsidiary to sell assets not otherwise permitted by the indenture relating to the Company's Senior Secured Notes due 2015 (or any replacement thereof).

Other Covenants. The Certificate of Designation includes additional terms regarding obligations of the Company. Upon a specified breach event (which shall include an event of default under the indenture relating to the Company's Senior Secured Notes due 2015, the Company's failure to pay any dividends for a period longer than 90 days, the Company's failure to maintain a 1:1 ratio of cash and cash equivalents to fixed charges until March 31, 2012, the Company's failure to perform certain covenants under the Certificate of Designation, and causing the delisting of its Common Stock) the Company shall be prohibited from making certain restricted payments, incurring certain debt, and entering into certain agreements to purchase debt or equity interests in portfolio companies of Harbinger Capital or its affiliates (other than the Company) or to sell equity interests in portfolio companies of the Company to Harbinger Capital or its affiliates.

Registration Rights Amendment and Joinder

In connection with the Securities Purchase Agreement, and as an inducement to the Purchasers to enter into the Securities Purchase Agreement, the Company and the Existing Purchasers will, on the Closing Date, enter into a Registration Rights Amendment and Joinder with the Purchasers (the "Registration Rights Amendment and Joinder"), extending the registration rights provided in the Registration Rights Agreement, dated May 12, 2011, by and among the Company and the Existing Purchasers, to the Purchasers.

Under the Registration Rights Agreement, the Company is obligated to use commercially reasonable efforts to cause a registration statement with respect to the Common Stock underlying the Preferred Stock to be filed under the Securities Act of 1933, as amended, by October 10, 2011 and declared effective by January 25, 2012. The Company has agreed to keep the registration statement effective until all of the Common Stock covered therein has been sold or may be sold without volume or manner of sale restrictions under Rule 144 of the Securities Act. In connection with the Registration Rights Amendment and Joinder, the Company amended its existing Registration Rights Agreement with Harbinger Capital, dated September 10, 2010.

Certificate of Amendment of Certificate of Designation of Series A Participating Convertible Preferred Stock

In connection with the Securities Purchase Agreement, the Company will amend the existing Certificate of Designation of Series A Participating Convertible Preferred Stock of Harbinger Group Inc. adopted on May 12, 2011 (the "Existing Certificate of Designation") by a Certificate of Amendment of Certificate of Designation of Series A Participating Convertible Preferred Stock of Harbinger Group Inc. (the "Certificate of Amendment"), a form of which is attached as Exhibit 4.2. The Certificate of Amendment will be filed with the Delaware Secretary of State, and become effective, 20 calendar days following the mailing of a Schedule 14C Information Statement to the Company's stockholders.

Item 3.02 Unregistered Sales of Equity Securities.

The sale of the Preferred Stock described in Item 1.01 of this Current Report on Form 8-K are being issued and sold in the Private Placement without registration under the Securities Act, in reliance upon the exemption from registration set forth in Rule 506 of Regulation D ("Regulation D") promulgated under the Securities Act. The Company is basing such reliance upon representations made by each Purchaser, including, but not limited to, representations as to the Purchaser's status as an "accredited investor" (as defined in Rule 501(a) under Regulation D) and the Purchaser's investment intent. The Preferred Stock is not being offered or sold by any form of general solicitation or general advertising (as such terms are used in Rule 502 under Regulation D). The Preferred Stock, may not be re-offered or sold in the United States absent an effective registration statement or an exemption from the registration requirements under applicable federal and state securities laws. The information in Item 1.01 of this Current Report on Form 8-K is incorporated herein by this reference.

Item 3.03 Material Modification to Rights of Securityholders.

The filing of the Company's Certificate of Amendment, Certificate of Designation, and the issuance of the Preferred Stock on the Closing Date will affect the holders of the Common Stock to the extent provided for in the Certificate of Amendment and the Certificate of Designation. The Certificate of Designation and the Certificate of Amendment are attached as Exhibits 4.1 and 4.2 respectively, and incorporated herein by reference in their entirety. The disclosure under Item 1.01 above is incorporated herein by reference.

Item 5.07 Submission of Matters to a Vote of Security Holders.

Harbinger Capital Partners Master Fund I, Ltd., Global Opportunities Breakaway Ltd., Harbinger Capital Partners Special Situations Fund, L.P., and Wilmington Trust Company (together, the "Common Stockholders") and the Existing Purchasers approved the Certificate of Amendment by written consents dated August 5, 2011.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit Number	Exhibit Description
4.1	Certificate of Designation
4.2	Certificate of Amendment
10.1	Securities Purchase Agreement
10.2	First Amendment to Securities Purchase Agreement

SIGNATURES

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

HARBINGER GROUP INC.

Date: August 5, 2011

By: /s/ Francis T. McCarron
Name: Francis T. McCarron
Title: Executive Vice President and
Chief Financial Officer

CERTIFICATE OF DESIGNATION
OF SERIES A-2 PARTICIPATING CONVERTIBLE PREFERRED STOCK
OF
HARBINGER GROUP INC.

The undersigned, Francis T. McCarron, Executive Vice President of Harbinger Group Inc. (including any successor in interest, the "Company"), a corporation organized and existing under the General Corporation Law of the State of Delaware (the "DGCL"), does hereby certify, in accordance with Sections 103 and 151 of the DGCL, that the following resolutions were duly adopted by its Board of Directors (the "Board") on July 28, 2011:

WHEREAS, the Company's Certificate of Incorporation (the "Certificate of Incorporation"), authorizes 10,000,000 shares of preferred stock, par value $0.01 per share (the "Preferred Stock"), issuable from time to time in one or more series;

WHEREAS, the Certificate of Incorporation authorizes the Board to provide by resolution for the issuance of the shares of Preferred Stock in one or more series, the number of shares in each series, the voting powers, if any, and such designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations and restrictions thereof;

WHEREAS, the Board desires, pursuant to its authority as aforesaid, to designate a new series of Preferred Stock, set the number of shares constituting such series, and the voting powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations and restrictions thereof;

WHEREAS, on May 13, 2011, the Company issued 280,000 shares of Series A Participating Convertible Preferred Stock of the Company, par value $0.01 per share (the "Existing Series A Preferred Stock"), to certain Persons (such Persons, the "Existing Holders"), which Existing Series A Preferred Stock was designated by the Board pursuant to the Certificate of Designation of Series A Participating Convertible Preferred Stock of Harbinger Group Inc., dated as of May 12, 2011 (the "Existing Series A Certificate of Designation"); and

WHEREAS, it is the Company's intention that the Existing Series A Preferred Stock and the Series A-2 Preferred Stock shall have equivalent powers, preferences, rights and privileges, other than with respect to (x) terms and provisions specifically applicable to, or for the benefit of, the Fortress Investor and/or its Affiliates, and (y) the Conversion Price and the conversion price of the Existing Series A Preferred Stock.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby designates a new series of Preferred Stock, consisting of the number of shares set forth herein, with the voting powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations and restrictions relating to such series as follows:

SECTION 1. Number; Designation; Rank.

(a) This series of convertible participating preferred stock is designated as the "Series A-2 Participating Convertible Preferred Stock" (the "Series A-2 Preferred Stock"). The maximum number of shares constituting the Series A-2 Preferred Stock is 120,000 shares, par value $0.01 per share.

(b) The Series A-2 Preferred Stock ranks, with respect to the payment of dividends, redemption payments, rights (including as to the distribution of assets upon liquidation, dissolution or winding-up of the Company) or otherwise:

(i) senior in preference and priority to the Common Stock and each other class or series of Capital Stock of the Company, except for (x) any class or series of Capital Stock hereafter issued in compliance with the terms hereof and the terms of which expressly provide that it will rank senior to or on parity, without preference or priority, with the Series A-2 Preferred Stock with respect to the payment of dividends, redemption payments, rights (including as to the distribution of assets) upon liquidation, dissolution or winding-up of the Company, or otherwise (collectively with the Common Stock, the "Junior Securities") or (y) the Existing Series A Preferred Stock;

(ii) on parity, without preference and priority, with (x) the Existing Series A Preferred Stock, and (y) each other class or series of Capital Stock of the Company hereafter issued in compliance with the terms hereof and the terms of which expressly provide that it will rank on parity, without preference or priority, with the Series A-2 Preferred Stock with respect to the payment of dividends, redemption payments, rights (including as to the distribution of assets) upon liquidation, dissolution or winding-up of the Company, or otherwise (collectively, the "Parity Securities"); and

(iii) junior in preference and priority to each other class or series of Preferred Stock or any other Capital Stock of the Company hereafter issued in compliance with the terms hereof and the terms of which expressly provide that it will rank senior in preference or priority to the Series A-2 Preferred Stock with respect to the payment of dividends, redemption payments, rights (including as to the distribution of assets) upon liquidation, dissolution or winding-up of the Company or otherwise (collectively, "Senior Securities").

SECTION 2. Dividends.

(a) Cash Dividends. Holders shall be entitled to receive, out of funds legally available for the payment of dividends to the Company's stockholders under Delaware law, on each Preferred Share, cumulative cash dividends at a per annum rate of 8.00% on the amount of the Purchase Price ("Cash Dividends"). Such Cash Dividends shall begin to accrue and be cumulative from the Issue Date. Cash Dividends shall be payable quarterly with respect to each Dividend Period in arrears on the first Dividend Payment Date after such Dividend Period. If and to the extent that the Company does not for any reason (including because there are insufficient funds legally available for the payment of dividends) pay the entire Cash Dividend payable for a particular

Dividend Period in cash on the applicable Dividend Payment Date for such period (whether or not there are funds of the Company legally available for the payment of dividends to the Company's stockholders under Delaware law or such dividends are declared by the Board), during the period in which such Cash Dividend remains unpaid, an additional accreting dividend (the "Cash Accretion Dividends") shall accrue and be payable at an annual rate equal to the Dividend Rate on the amount of the unpaid Cash Dividend through the daily addition of such Cash Accretion Dividends to the Purchase Price (whether or not such Cash Accretion Dividends are declared by the Board).

(b) Accreting Dividends. In addition to the Cash Dividend, for each Dividend Period beginning on or after the Issue Date, the Holders shall be entitled to receive on each Preferred Share additional dividends at the per annum rates set forth in this SECTION 2(b) (the "Basic Accreting Dividends" and, together with the Cash Accretion Dividends, the Participating Accretion Dividends and the In-Kind Participating Dividends, the "Accreting Dividends"; the Accreting Dividends, together with the Cash Dividend and the Participating Dividends, the "Dividends"). Basic Accreting Dividends shall accrue and be cumulative from the Issue Date. Basic Accreting Dividends shall be payable quarterly with respect to each Dividend Period in arrears on the first Dividend Payment Date after such Dividend Period by the addition of such amount to the Purchase Price, whether or not declared by the Board. Such Basic Accreting Dividend for any Dividend Period shall be at a per annum rate (the "Accreting Dividend Rate") determined as follows:

(i) If Net Asset Value as of the last day of any Dividend Period is less than 120% of the May 13 NAV, a per annum rate of 4.00% of the Purchase Price for the next succeeding Dividend Period;

(ii) If Net Asset Value as of the last day of any Dividend Period is equal to or greater than 120% and less than or equal to 140% of the May 13 NAV, a per annum rate of 2.00% of the Purchase Price for the next succeeding Dividend Period; and

(iii) If Net Asset Value as of the last day of any Dividend Period is greater than 140% of the May 13 NAV, no additional per annum rate for the next succeeding Dividend Period;

provided, however, that the Basic Accreting Dividend with respect to the period from the Original Issue Date to September 30, 2011 shall be payable at a per annum rate of 4.00% of the Purchase Price.

(c) Participating Cash Dividends. If the Company declares, makes or pays any cash dividend or distribution in respect of all or substantially all holders of Common Stock (a "Common Dividend"), each Holder shall receive a dividend (in addition to the Dividends provided for by SECTION 2(a) and SECTION 2(b)) in respect of each Preferred Share held thereby, in an amount equal to the product of (x) the amount of such Common Dividend paid per share of Common Stock, multiplied by (y) the number of shares of Common Stock issuable if such Preferred Share had been converted into shares of Common Stock immediately prior to the record date for such Common Dividend (such amount per share of Preferred Stock, the "Participating Cash Dividend"). Participating Cash Dividends shall be payable to Holders on the record date for such Common

Dividend at the same time and in the same manner as the Common Dividend triggering such Participating Cash Dividend is paid. If and to the extent that the Company does not for any reason pay the entire Participating Cash Dividend when the Common Dividend is paid to the holders of Common Stock, during the period in which such Participating Cash Dividend remains unpaid, an additional accreting dividend (the "Participating Accretion Dividends") shall accrue and be payable at an annual rate equal to the Dividend Rate on the amount of the unpaid Participating Cash Dividend through the daily addition of such Participating Accretion Dividends to the Purchase Price (whether or not such Participating Accretion Dividends are declared by the Board).

(d) In-Kind Participating Dividends. If the Company distributes shares of its Capital Stock, evidences of its indebtedness or other assets, securities or property, to all or substantially all holders of Common Stock (an "In-Kind Common Dividend"), including without limitation any spin-off of one or more subsidiaries or businesses of the Company but excluding: (I) dividends or distributions referred to in SECTIONS 5(g)(i)(A) and 5(g)(i)(B); and (II) cash dividends with respect to which Holders are entitled to Participating Cash Dividends, then the Holders shall receive in such distribution or other transaction, at the same time and in the same manner as holders of Common Stock, the same type and amount of consideration (the "In-Kind Participating Dividend" and, collectively with the Participating Cash Dividend, the "Participating Dividends") as Holders would have received if, immediately prior to the record date of such In-Kind Common Dividend, they had held the number of shares of Common Stock issuable upon conversion of the Preferred Shares. To the extent that the Company establishes or adopts a stockholder rights plan or agreement (i.e., a "poison pill"), the Company shall ensure that the Holders will receive, as an In-Kind Participating Dividend, rights under the stockholder rights plan or agreement with respect to any shares of Common Stock that at the time of such distribution would be issuable upon conversion of the Preferred Shares. If and to the extent that the Company does not for any reason pay the entire In-Kind Participating Dividend when the Common Dividend is paid to the holders of Common Stock, during the period in which such In-Kind Participating Dividend remains unpaid, an additional accreting dividend (the "In-Kind Accretion Dividends") shall accrue and be payable at an annual rate equal to the Dividend Rate on the amount of the unpaid In-Kind Participating Dividend through the daily addition of such In-Kind Accretion Dividends to the Purchase Price (whether or not such In-Kind Accretion Dividends are declared by the Board).

(e) Dividends (other than Participating Dividends) payable on the Series A-2 Preferred Stock in respect of any Dividend Period shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The amount of Dividends (other than Participating Dividends) payable on the Series A-2 Preferred Stock on any date prior to the end of a Dividend Period, and for the initial Dividend Period, shall be computed on the basis of a 360-day year consisting of twelve 30-day months, and actual days elapsed over a 30-day month.

(f) Cash Dividends and Accreting Dividends that are payable on Series A-2 Preferred Stock on any Dividend Payment Date will be payable to Holders of record on the applicable record date, which shall be the fifteenth (15^{th}) calendar day before the applicable Dividend Payment Date, or, with respect to any Cash Dividends not paid on the scheduled Dividend Payment Date therefor, such record date fixed by the Board (or a duly authorized committee of the

Board) that is not more than sixty (60) nor less than ten (10) days prior to such date on which such accrued and unpaid Cash Dividends are to be paid (each such record date, a "Dividend Record Date"). Any such day that is a Dividend Record Date shall be a Dividend Record Date whether or not such day is a Business Day.

(g) The quarterly dividend periods with respect to Cash Dividends and Accreting Dividends shall commence on and include January 1, April 1, July 1 and October 1 (other than the initial Dividend Period, which shall commence on and include the Issue Date) and shall end on and include the last calendar day of the calendar quarter ending March 31, June 30, September 30 and December 31 preceding the next Dividend Payment Date (a "Dividend Period").

SECTION 3. Liquidation Preference.

(a) Upon any Liquidation Event, each Preferred Share entitles the Holder thereof to receive and to be paid out of the assets of the Company legally available for distribution to the Company's stockholders, before any distribution or payment may be made to a holder of any Junior Securities, an amount in cash per share equal to the greater of: (i) 150% of the sum of (A) the Purchase Price, plus (B) all accrued and unpaid Dividends (including, without limitation, accrued and unpaid Cash Dividends and accrued and unpaid Accreting Dividends for the then current Dividend Period), if any, on such share to the extent not included in the Purchase Price (such sum, after the 150% multiplier and as adjusted, the "Regular Liquidation Preference"), and (ii) an amount equal to the amount the Holder of such share would have received upon such Liquidation Event had such Holder converted such Preferred Share into Common Stock (or Reference Property, to the extent applicable) immediately prior thereto (the "Participating Liquidation Preference," and such greater amount, the "Liquidation Preference").

(b) If upon any such Liquidation Event, the assets of the Company legally available for distribution to the Company’s stockholders are insufficient to pay the Holders the full Liquidation Preference and the holders of all Parity Securities the full liquidation preferences to which they are entitled, the Holders and the holders of such Parity Securities will share ratably in any such distribution of the assets of the Company in proportion to the full respective amounts to which they are entitled.

(c) After payment to the Holders of the full Liquidation Preference to which they are entitled, the Holders as such will have no right or claim to any of the assets of the Company.

(d) The value of any property not consisting of cash that is distributed by the Company to the Holders will equal the Fair Market Value thereof on the date of distribution.

(e) No holder of Junior Securities shall receive any cash upon a Liquidation Event unless the entire Liquidation Preference in respect of the Preferred Shares has been paid in cash. To the extent that there is insufficient cash available to pay the entire Liquidation Preference in respect of the Preferred Shares and any liquidation preference in respect of Parity Securities in full in cash upon a Liquidation Event, the Holders and the holders of such Parity Securities will share ratably in

any cash available for distribution in proportion to the full respective amounts to which they are entitled upon such Liquidation Event.

SECTION 4. Voting Rights.

(a) The Holders are entitled to vote on all matters on which the holders of shares of Common Stock are entitled to vote and, except as otherwise provided herein or by law, the Holders shall vote together with the holders of shares of Common Stock as a single class. As of any record date or other determination date, each Holder shall be entitled to the number of votes such Holder would have had if all Preferred Shares held by such Holder on such date had been converted into shares of Common Stock immediately prior thereto, except that:

(i) at no time shall a Holder have voting rights pursuant to SECTION 4(a) or otherwise in respect of more than 9.9% of the Total Current Voting Power unless such Holder has received any approvals from the Insurance Regulatory Authorities required to be obtained by such Holder in order for such Holder to possess voting rights in respect of the Company in excess of 9.9% of the Total Current Voting Power; and

(ii) in the event that any Holder would be required to file any Notification and Report Form pursuant to the HSR Act as a result of the receipt of any Accreting Dividends by such Holder, the voting rights of such Holder pursuant to this Section 4(a) shall not be increased as a result of such Holder's receipt of such Accreting Dividends unless and until such Holder and the Company shall have made their respective filings under the HSR Act and the applicable waiting period shall have expired or been terminated in connection with such filings. The Company shall make all required filings and reasonably cooperate with and assist such Holder in connection with the making of such filing and obtaining the expiration or termination of such waiting period and shall be reimbursed by such Holder for any reasonable and documented out-of-pocket costs incurred by the Company in connection with such filings and cooperation.

(b) In addition to the voting rights provided for by SECTION 4(a) and any voting rights to which the Holders may be entitled to under law:

(i) for so long as any Preferred Shares, shares of Existing Series A Preferred Stock, or shares of Additional Permitted Preferred Stock are outstanding, the Company may not, directly or indirectly, take any of the following actions (including by means of merger, consolidation, reorganization, recapitalization or otherwise) without the prior written consent of the Majority Holders:

(A) amend the Certificate of Incorporation (excluding for this purpose this Certificate of Designation) or the By-Laws of the Company (including by means of merger, consolidation, reorganization, recapitalization or otherwise), in each case, in a manner adverse to the Holders;

(B) create or issue any (x) Senior Securities or (y) except as permitted under SECTION 8(b) and otherwise by this Certificate of Designation, Parity Securities or Additional Permitted Preferred Stock;

(C) incur, or permit any Subsidiary Guarantor to incur, any Debt (excluding any Debt incurred to refinance the Senior Notes) not otherwise permitted by the terms of the Indenture;

(D) make, or permit any Subsidiary Guarantor to make, any Asset Sales not otherwise permitted by the terms of the Indenture;

(E) make, or to the extent within the Company's control, permit any of its Subsidiaries to make, any Restricted Payments not otherwise permitted by the terms of the Indenture;

(F) create a new Subsidiary of the Company not in existence on the Original Issue Date for the primary purpose of issuing Equity Securities of such Subsidiary or incurring Debt the proceeds of which will, directly or indirectly, be used to make dividends or other distributions or payments of cash to holders of the Company's Capital Stock other than the Holders; provided, that for the avoidance of doubt, the foregoing shall not prohibit dividends or other distributions to the Company; or

(G) agree to do, directly or indirectly, any of the foregoing actions set forth in clauses (A) through (F), unless such agreement expressly provides that the Company's obligation to undertake any of the foregoing is subject to the prior approval of the Majority Holders; and

(ii) for so long as any Preferred Shares, shares of Existing Series A Preferred Stock, or shares of Additional Permitted Preferred Stock are outstanding, neither the Company nor, to the extent within the Company's control, any of its Subsidiaries may, directly or indirectly, take any of the following actions (including by means of merger, consolidation, reorganization, recapitalization or otherwise) without the prior written consent of each of the Holders:

(A) make any repurchase, redemption or other acquisition for value of Preferred Shares, shares of Existing Series A Preferred Stock or shares of Additional Permitted Preferred Stock, unless such redemption is made on the same terms and on a pro rata basis among all Holders (other than Holders that are granted an equal opportunity to participate in such transaction but elect not to do so); or

(B) agree to do, directly or indirectly, any of the foregoing actions set forth in clause (A), unless such agreement expressly provides that the Company's obligation to undertake any of the foregoing is subject to the prior approval of each of the Holders; and

(iii) for so long as any Preferred Shares are outstanding, the Company may not, directly or indirectly, take any of the following actions (including by means of merger, consolidation, reorganization, recapitalization or otherwise) without the prior written consent of the Series A-2 Majority Holders:

(A) amend, repeal, alter or add, delete or otherwise change the powers, preferences, rights or privileges of the Series A-2 Preferred Stock;

(B) effect any stock split or combination, reclassification or similar event with respect to the Series A-2 Preferred Stock; or

(C) agree to do, directly or indirectly, any of the foregoing actions set forth in clauses (A) and (B), unless such agreement expressly provides that the Company's obligation to undertake any of the foregoing is subject to the prior approval of the Series A-2 Majority Holders; and

(iv) for so long as any Preferred Shares are outstanding, neither the Company nor, to the extent within the Company's control, any of its Subsidiaries may, directly or indirectly, take any of the following actions (including by means of merger, consolidation, reorganization, recapitalization or otherwise) without the prior written consent of each of the holders of Preferred Shares:

(A) amend, repeal, alter or add, delete or otherwise change the powers, preferences, rights or privileges of the Series A-2 Preferred Stock set forth in the Specified Sections (including by means of merger, consolidation, reorganization, recapitalization or otherwise) in a manner adverse to the holders of Preferred Shares (whether by means of an amendment or other change to the Specified Sections or by means of an amendment or other change to any definitions used in the Specified Sections or any other terms of this Certificate of Designation affecting the Specified Sections); or

(B) agree to do, directly or indirectly, any of the foregoing actions set forth in clause (A), unless such agreement expressly provides that the Company's obligation to undertake any of the foregoing is subject to the prior approval of each of the holders of Preferred Shares.

(c) The agreements of the Company in SECTION 4(b) insofar as they govern or purport to govern conduct concerning any Subsidiary of the Company are being made by the Company solely in its capacity as the controlling shareholder of such Subsidiary and not in any fiduciary capacity of it or any of the Subsidiary's officers or directors, and nothing herein shall require the Company to act in any way that would cause any shareholder, director or officer of any such Subsidiary to act in a manner that would violate legally imposed fiduciary duties applicable to any such shareholder, director or officer.

(d) Notwithstanding anything to the contrary contained in SECTION 4(b), the Holders shall have no voting or consent rights (but will continue to have voting rights to the extent set forth in SECTION 4(a)) in connection with any FS/OM Permitted Activities.

(e) Notwithstanding anything to the contrary contained in this SECTION 4, the Company may not, directly or indirectly, take any action otherwise approved pursuant to Section 4(b) if such action would have a materially adverse and disproportionate effect on the powers, preferences, rights, limitations, qualifications and restrictions or privileges of any Holder with respect to any shares of Series A-2 Preferred Stock held by any Holder, without the prior approval of such Holder.

(f) Written Consent. Any action as to which a class vote of the holders of Preferred Stock, or the holders of Preferred Stock and Common Stock voting together, is required pursuant to the terms of this Certificate of Designation may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the Company.

SECTION 5. Conversion. Each Preferred Share is convertible into shares of Common Stock (or Reference Property, to the extent applicable) as provided in this SECTION 5, except that Preferred Shares may not be converted into Common Stock with respect to any Holder to the extent that, following such conversion, such Holder would Beneficially Own more than 9.9% of the Company's outstanding Common Stock until the receipt by such Holder of any approvals from the Insurance Regulatory Authorities required to be obtained by such Holder in order for such Holder to Beneficially Own in excess of 9.9% of the Company's outstanding Common Stock.

Notwithstanding anything to the contrary herein, if any of the approvals from the Insurance Regulatory Authorities required to be obtained by a Holder in order for such Holder to Beneficially Own in excess of 9.9% of the Company's outstanding Common Stock have not been obtained at (x) a time when the Company desires to exercise its right to convert shares of Series A-2 Preferred Stock pursuant to SECTION 5(b) or (y) the Maturity Date in connection with the automatic conversion of the shares of Series A-2 Preferred Stock pursuant to SECTION 5(c), the Company will not be entitled to convert any Holder's Series A-2 Preferred Stock (and, in the case of SECTION 5(c), the Series A-2 Preferred Stock shall not automatically convert) to the extent conversion would cause such Holder to Beneficially Own more than 9.9% of the Company's outstanding Common Stock (any such shares of Series A-2 Preferred Stock that are not converted as a result of the foregoing limitation, the "Regulated Shares"). From and after the date of the conversions contemplated by SECTIONS 5(b) or 5(c), as applicable, each Regulated Share shall have no rights, powers, preferences or privileges other than the right to (i) convert into Common Stock if and when the approvals from the Insurance Regulatory Authorities required to be obtained by such Holder in order for such Holder to Beneficially Own in excess of 9.9% of the Company's outstanding Common Stock have been obtained and (ii) receive dividends and distributions pursuant to SECTIONS 2(c) and 2(d).

(a) Conversion at the Option of Holders of Series A-2 Preferred Stock. Subject to SECTION 5(b) hereof, each Holder is entitled to convert, at any time and from time to time, at the option and election of such Holder, any or all outstanding Preferred Shares held by such Holder and receive therefor the property described in SECTION 5(d) upon such conversion. In order to convert Preferred Shares into shares of Common Stock (or Reference Property, to the extent applicable), the Holder must surrender the certificates representing such Preferred Shares at the office of the Company's transfer agent for the Series A-2 Preferred Stock (or at the principal office of the Company, if the Company serves as its own transfer agent), together with (x) written notice that such Holder elects to convert all or part of the Preferred Shares represented by such certificates as specified therein, (y) a written instrument or instructions of transfer or other documents and endorsements reasonably acceptable to the transfer agent or the Company, as applicable (if reasonably required by the transfer agent or the Company, as applicable), and (z) funds for any stock transfer, documentary, stamp or similar taxes, if payable by the Holder pursuant to SECTION 5(f)(i). Except as provided in SECTION 5(b) and in SECTION 5(c), the date the transfer agent or the Company, as applicable, receives such certificates, together with such notice and any other documents and amounts required to be paid by the Holder pursuant to this SECTION 5, will be the date of conversion (the "Conversion Date").

(b) Conversion at the Option of the Company. Beginning on the third (3rd) anniversary of May 13, 2011, the Company shall have the right, at its option, to cause all shares of Series A-2 Preferred Stock to be automatically converted (without any further action by the Holder and whether or not the certificates representing the Preferred Shares are surrendered), in whole but not in part, into the property described in SECTION 5(d) within eight (8) Business Days of any day (the "Forced Conversion Trigger Date") on which all of the Company Conversion Conditions are satisfied from time to time. The Company may exercise its option under this SECTION 5(b) by providing the Holders with a notice, which notice shall specify that the Company is exercising the option contemplated by this SECTION 5(b), the Forced Conversion Trigger Date and the Conversion Date on which the conversion shall occur (which Conversion Date shall be not less than four (4) Business Days following the date such notice is provided to the Holders); *provided* that, once delivered, such notice shall be irrevocable, unless the Company obtains the written consent of the Series A-2 Majority Holders. For the avoidance of doubt, (x) the Holders shall continue to have the right to convert their Preferred Shares pursuant to SECTION 5(a) until and through the Conversion Date contemplated in this SECTION 5(b) and (y) if any Preferred Shares are converted pursuant to SECTION 5(a), such Preferred Shares shall no longer be converted pursuant to this SECTION 5(b) and the Company's notice delivered to the Holders pursuant to this SECTION 5(b) shall automatically terminate with respect to such Preferred Shares. Notwithstanding the foregoing, any notice delivered by the Company under this SECTION 5(b) in accordance with SECTION 10(g) shall be conclusively presumed to have been duly given at the time set forth therein, whether or not such Holder of Preferred Shares actually receives such notice, and neither the failure of a Holder to actually receive such notice given as aforesaid nor any immaterial defect in such notice shall affect the validity of the proceedings for the conversion of the Preferred Shares as set forth in this SECTION 5(b). The Company shall issue a press release for publication on the Dow Jones News Service or Bloomberg Business News (or if either such service is not available, another broadly disseminated news or press release service selected by the Company) prior to the opening of

business on the first Business Day following any date on which the Company provides notice to Holders pursuant to this SECTION 5(b) announcing the Company's election to convert Preferred Shares pursuant to this SECTION 5(b).

(c) Automatic Conversion on Maturity Date. In the event that any Holder has not elected to have its Preferred Shares redeemed by the Company on the Maturity Date (as defined herein) pursuant to SECTION 6(a), then such Holder's Preferred Shares shall be automatically converted (without any further action by the Holder and whether or not the certificates representing the Preferred Shares are surrendered), in whole and not in part, into the property described in SECTION 5(d), effective as of the Maturity Date, which shall be deemed to be the "Conversion Date" for purposes of this SECTION 5(c). As promptly as practicable (but in no event more than five (5) Business Days) following the Maturity Date, the Company shall deliver a notice to any Holder whose Preferred Shares have been converted by the Company pursuant to this SECTION 5(c), informing such Holder of the number of shares of Common Stock into which such Preferred Shares have been converted, together with certificates evidencing such shares of Common Stock. Notwithstanding the foregoing, any notice delivered by the Company in compliance with this SECTION 5(c) shall be conclusively presumed to have been duly given, whether or not such Holder of Preferred Shares actually receives such notice, and neither the failure of a Holder to actually receive such notice given as aforesaid nor any immaterial defect in such notice shall affect the validity of the proceedings for the conversion of the Preferred Shares as set forth in this SECTION 5(c). The Company shall issue a press release for publication on the Dow Jones News Service or Bloomberg Business News (or if either such service is not available, another broadly disseminated news or press release service selected by the Company) prior to the opening of business on the first Business Day following the Maturity Date announcing the aggregate number of Preferred Shares being converted pursuant to this SECTION 5(c) and the number of shares of Common Stock issuable in connection therewith, as well as the aggregate number of Preferred Shares redeemed on the Maturity Date and the purchase price paid by the Company therefor.

(d) Amounts Received Upon Conversion. Upon a conversion of Preferred Shares pursuant to SECTION 5(a), (b) or (c), the Holder of such converted Preferred Shares shall, subject to the limitations and adjustments pursuant to the first paragraph of SECTION 5, receive in respect of each Preferred Share:

(i) a number of shares of Common Stock (or Reference Property, to the extent applicable) equal to the amount (the "Conversion Amount") determined by dividing (A) the Purchase Price for the Preferred Share to be converted by (B) the Conversion Price in effect at the time of conversion; *provided* that, notwithstanding the foregoing, if the Company has elected to convert all Preferred Shares pursuant to SECTION 5(b) and the Public Float Hurdle is not met on the Forced Conversion Trigger Date, then each Holder may elect, by delivery of a notice to the Company no later than the close of business on the Business Day immediately prior to the Conversion Date, to receive, in lieu of Common Stock (or Reference Property, to the extent applicable), cash equal to the Conversion Amount multiplied by the Thirty Day VWAP as of the close of business on the Business Day immediately preceding the Conversion Date, which cash amount shall be delivered to the electing Holders within forty-five (45) calendar days of the date that

the last Holder electing to receive cash pursuant to this SECTION 5(d)(i) has provided the Company with notice thereof;

(ii) cash in an amount equal to the amount of any accrued but unpaid Cash Dividends and Participating Cash Dividends (to the extent not included in the Purchase Price) on the Preferred Shares being converted; *provided* that, to the extent the Company is prohibited by law or by contract from paying such amount, then the Company shall provide written notice to the applicable Holder of such inability to pay, and at the written election of the Holder (which written election shall be delivered to the Company within five (5) Business Days of receipt of such written notice from the Company), the Company shall either pay such amount as soon as payment is no longer so prohibited or issue Common Stock (or Reference Property, to the extent applicable) in the manner specified in SECTION 5(d)(i) as if the amount of such accrued but unpaid Cash Dividends and Participating Cash Dividends were added to the Purchase Price;

(iii) a number of shares of Common Stock (or Reference Property, to the extent applicable) equal to the amount determined by dividing (A) the amount of any accrued but unpaid Accreting Dividends (to the extent not included in the Purchase Price) on the Preferred Shares being converted by (B) the Conversion Price in effect at the time of Conversion; and

(iv) any accrued and unpaid In-Kind Participating Dividends.

Notwithstanding the foregoing, in the event any Holder would be required to file any Notification and Report Form pursuant to the HSR Act as a result of the conversion of any Preferred Shares into the property described above in this Section 5(d), at the option of such Holder upon written notice to the Company, the effectiveness of such conversion shall be delayed (only to the extent necessary to avoid a violation of the HSR Act), until such Holder shall have made such filing under the HSR Act and the applicable waiting period shall have expired or been terminated; provided, however, that in such circumstances such Holder shall use commercially reasonable efforts to make such filing and obtain the expiration or termination of such waiting period as promptly as reasonably practical and the Company shall make all required filings and reasonably cooperate with and assist such Holder in connection with the making of such filing and obtaining the expiration or termination of such waiting period and shall be reimbursed by such Holder for any reasonable and documented out-of-pocket costs incurred by the Company in connection with such filings and cooperation. Notwithstanding the foregoing, if the conversion of any Preferred Share is delayed pursuant to the preceding sentence at (x) a time when the Company desires to exercise its right to convert shares of Series A-2 Preferred Stock pursuant to SECTION 5(b) or (y) the Maturity Date in connection with the automatic conversion of the shares of Series A-2 Preferred Stock pursuant to SECTION 5(c), from and after the date of the conversions contemplated by SECTIONS 5(b) or 5(c), as applicable, such Preferred Share not then converted shall have no rights, powers, preferences or privileges other than the rights provided by this paragraph and the right to (i) convert into Common Stock if and when such Holder shall have made such filing under the HSR Act and the waiting period in connection with such filing under the HSR Act shall have expired or been terminated and (ii) receive dividends and distributions pursuant to SECTIONS 2(c) and 2(d).

(e) Fractional Shares. No fractional shares of Common Stock (or fractional shares in respect of Reference Property, to the extent applicable) will be issued upon conversion of the Series A-2 Preferred Stock. In lieu of fractional shares, the Company shall pay cash in respect of each fractional share equal to such fractional amount multiplied by the Thirty Day VWAP as of the closing of business on the Business Day immediately preceding the Conversion Date. If more than one Preferred Share is being converted at one time by the same Holder, then the number of full shares issuable upon conversion will be calculated on the basis of the aggregate number of Preferred Shares converted by such Holder at such time.

(f) Mechanics of Conversion.

(i) As soon as reasonably practicable after the Conversion Date, or in the case of Regulated Shares, the date on which the Holder thereof provides evidence to the Company that such Holder has obtained the approvals from the Insurance Regulatory Authorities required to be obtained by such Holder to Beneficially Own in excess of 9.9% of the Company's outstanding Common Stock, (and in any event within four (4) Trading Days after either such date), the Company shall issue and deliver to such Holder one or more certificates for the number of shares of Common Stock (or Reference Property, to the extent applicable) to which such Holder is entitled, together with, at the option of the Holder, a check or wire transfer of immediately available funds for payment of fractional shares and any payment required by SECTION 5(d)(ii) in exchange for the certificates representing the converted Preferred Shares (including any Regulated Shares). Such conversion will be deemed to have been made on the Conversion Date, or in the case of Regulated Shares, the date on which the Holder thereof provides evidence to the Company that such Holder has obtained the approvals from the Insurance Regulatory Authorities required to be obtained by such Holder to Beneficially Own in excess of 9.9% of the Company's outstanding Common Stock, and the Person entitled to receive the shares of Common Stock (or Reference Property, to the extent applicable) issuable upon such conversion shall be treated for all purposes as the record holder of such shares of Common Stock (or Reference Property, to the extent applicable) on such date. The delivery of the Common Stock upon conversion of Preferred Shares (including any Regulated Shares) shall be made, at the option of the applicable Holder, in certificated form or by book-entry. Any such certificate or certificates shall be delivered by the Company to the appropriate Holder on a book-entry basis or by mailing certificates evidencing the shares to the Holders at their respective addresses as set forth in the conversion notice. In cases where fewer than all the Preferred Shares represented by any such certificate are to be converted, a new certificate shall be issued representing the unconverted Preferred Shares (or Regulated Shares). The Company shall pay any documentary, stamp or similar issue or transfer tax due on the issue of Common Stock (or Reference Property, to the extent applicable) upon conversion or due upon the issuance of a new certificate for any Preferred Shares (or Regulated Shares) not converted to the converting Holder; provided that the Company shall not be required to pay any such amounts, and any such amounts shall be paid by the converting Holder, in the event that such Common Stock or Preferred Shares are issued in a name other than the name of the converting Holder.

(ii) For the purpose of effecting the conversion of Preferred Shares (including any Regulated Shares), the Company shall: (A) at all times reserve and keep available,

free from any preemptive rights, out of its treasury or authorized but unissued shares of Common Stock (or Reference Property, to the extent applicable) the full number of shares of Common Stock (or Reference Property, to the extent applicable) deliverable upon the conversion of all outstanding Preferred Shares (including Regulated Shares) after taking into account any adjustments to the Conversion Price from time to time pursuant to the terms of this SECTION 5 and any increases to the Purchase Price from time to time and assuming for the purposes of this calculation that all outstanding Preferred Shares are held by one holder) and (B) without prejudice to any other remedy at law or in equity any Holder may have as a result of such default, take all actions reasonably required to amend its Certificate of Incorporation, as expeditiously as reasonably practicable, to increase the authorized and available amount of Common Stock (or Reference Property, to the extent applicable) if at any time such amendment is necessary in order for the Company to be able to satisfy its obligations under this SECTION 5. Before taking any action which would cause an adjustment reducing the Conversion Price below the then par value of the shares of Common Stock (or Reference Property, to the extent applicable) issuable upon conversion of the Series A-2 Preferred Stock, the Company will take any corporate action which may be necessary in order that the Company may validly and legally issue fully paid and nonassessable shares of Common Stock (or Reference Property, to the extent applicable) upon the conversion of all outstanding Preferred Shares at such adjusted Conversion Price.

(iii) From and after the Conversion Date, or in the case of Regulated Shares, the date on which the Holder thereof provides evidence to the Company that such Holder has obtained the approvals from the Insurance Regulatory Authorities required to be obtained by such Holder to Beneficially Own in excess of 9.9% of the Company's outstanding Common Stock, the Preferred Shares (including any Regulated Shares) converted on such date, will no longer be deemed to be outstanding and all rights of the Holder thereof including the right to receive Dividends, but excluding the right to receive from the Company the Common Stock (or Reference Property, to the extent applicable) or any cash payment upon conversion, and except for any rights of Holders (including any voting rights) pursuant to this Certificate of Designation which by their express terms continue following conversion or, for the avoidance of doubt, rights which by their express terms continue following conversion pursuant to any of the other Transaction Agreements (as defined in the Securities Purchase Agreement) shall immediately and automatically cease and terminate with respect to such Preferred Shares (including any Regulated Shares); *provided* that, in the event that a Preferred Share or Regulated Share is not converted due to a default by the Company or because the Company is otherwise unable to issue the requisite shares of Common Stock (or Reference Property, to the extent applicable), such Preferred Share or Regulated Share will, without prejudice to any other remedy at law or in equity any Holder may have as a result of such default, remain outstanding and will continue be entitled to all of the rights attendant to such Preferred Share or Regulated Share (as the case may be) as provided herein.

(iv) If the conversion is in connection with any sale, transfer or other disposition of the shares of Common Stock (or Reference Property, to the extent applicable) issuable upon conversion of Preferred Shares made pursuant to the Tag-Along Agreement (as defined in the Securities Purchase Agreement), the conversion may, at the option of any Holder tendering Preferred Shares for conversion, be conditioned upon the closing of such sale, transfer or the disposition of the

shares of Common Stock (or Reference Property, to the extent applicable) issuable upon conversion of such Preferred Shares, in which event such conversion of such Preferred Shares shall not be deemed to have occurred until immediately prior to the closing of such sale, transfer or other disposition.

(v) The Company shall comply with all federal and state laws, rules and regulations and applicable rules and regulations of the Exchange on which shares of the Common Stock (or Reference Property, to the extent applicable) are then listed. If any shares of Common Stock (or Reference Property, to the extent applicable) to be reserved for the purpose of conversion of Preferred Shares require registration with or approval of any Person or group (as such term is defined in Section 13(d)(3) of the Exchange Act) under any federal or state law or the rules and regulations of the Exchange on which shares of the Common Stock (or Reference Property, to the extent applicable) are then listed before such shares may be validly issued or delivered upon conversion, then the Company will, as expeditiously as reasonably practicable, use commercially reasonable efforts to secure such registration or approval, as the case may be. So long as any Common Stock (or Reference Property, to the extent applicable) into which the Preferred Shares are then convertible is then listed on an Exchange, the Company will list and keep listed on any such Exchange, upon official notice of issuance, all shares of such Common Stock (or Reference Property, to the extent applicable) issuable upon conversion.

(vi) All shares of Common Stock (or Reference Property, to the extent applicable) issued upon conversion of the Preferred Shares (including any Regulated Shares) will, upon issuance by the Company, be duly and validly issued, fully paid and nonassessable, not issued in violation of any preemptive or similar rights arising under law or contract and free from all taxes, liens and charges with respect to the issuance thereof, and the Company shall take no action which will cause a contrary result.

(g) Adjustments to Conversion Price.

(i) The Conversion Price shall be subject to the following adjustments:

(A) *Common Stock Dividends or Distributions*. If the Company issues shares of Common Stock as a dividend or distribution on shares of Common Stock, or if the Company effects a share split or share combination with respect to shares of Common Stock, the Conversion Price will be adjusted based on the following formula:

$$CP_1 = CP_0 \times \frac{OS_0}{OS_1}$$

where,

CP_0 = the Conversion Price in effect immediately prior to the open of business on the Ex-Date for such dividend or distribution, or the open of business on the effective date of such share split or share combination, as the case may be;

CP_1 = the Conversion Price in effect immediately after the open of business on the Ex-Date for such dividend or distribution, or the open of business on the effective date of such share split or share combination, as the case may be;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the open of business on the Ex-Date for such dividend or distribution, or the open of business on the effective date of such share split or share combination, as the case may be; and

OS_1 = the number of shares of Common Stock outstanding immediately after such dividend or distribution, or such share split or share combination, as the case may be.

Any adjustment made under this SECTION 5(g)(i)(A) shall become effective immediately after the open of business on the Ex-Date for such dividend or distribution, or immediately after the open of business on the effective date for such share split or share combination. If any dividend or distribution of the type described in this SECTION 5(g)(i)(A) is declared but not so paid or made, or any share split or combination of the type described in this SECTION 5(g)(i)(A) is announced but the outstanding shares of Common Stock are not split or combined, as the case may be, the Conversion Price shall be immediately readjusted, effective as of the date the Board determines not to pay such dividend or distribution, or not to split or combine the outstanding shares of Common Stock, as the case may be, to the Conversion Price that would then be in effect if such dividend, distribution, share split or share combination had not been declared or announced.

(B) *Rights, Options or Warrants on Common Stock*. If the Company distributes to all or substantially all holders of its Common Stock any rights, options or warrants entitling them, for a period expiring not more than sixty (60) days immediately following the record date of such distribution, to purchase or subscribe for shares of Common Stock at a price per share less than the average of the Daily VWAP of the Common Stock over the ten (10) consecutive Trading Day period ending on the Trading Day immediately preceding the Ex-Date for such distribution, the Conversion Price will be adjusted based on the following formula:

$$CP_1 = CP_0 \times \frac{OS_0 + X}{OS_0 + Y}$$

where,

CP_0 = the Conversion Price in effect immediately prior to the open of business on the Ex-Date for such distribution;

CP_1 = the Conversion Price in effect immediately after the open of business on the Ex-Date for such distribution;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the open of business on the Ex-Date for such distribution;

X = the number of shares of Common Stock equal to the aggregate price payable to exercise all such rights, options or warrants divided by the average of the Daily VWAP of the Common Stock over the ten (10) consecutive Trading Day period ending on the Trading Day immediately preceding the Ex-Date for such distribution; and

Y = the total number of shares of Common Stock issuable pursuant to all such rights, options or warrants.

Any adjustment made under this SECTION 5(g)(i)(B) will be made successively whenever any such rights, options or warrants are distributed and shall become effective immediately after the open of business on the Ex-Date for such distribution. To the extent that shares of Common Stock are not delivered prior to the expiration of such rights, options or warrants, the Conversion Price shall be readjusted following the expiration of such rights to the Conversion Price that would then be in effect had the decrease in the Conversion Price with respect to the distribution of such rights, options or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. If such rights, options or warrants are not so distributed, the Conversion Price shall be immediately readjusted, effective as of the date the Board determines not to make such distribution, to the Conversion Price that would then be in effect if such distribution had not occured.

In determining whether any rights, options or warrants entitle the holders to subscribe for or purchase shares of Common Stock at less than such average of the Daily VWAP for the ten (10) consecutive Trading Day period ending on the Trading Day immediately preceding the Ex-Date for such distribution, and in determining the aggregate offering price of such shares of the Common Stock, there shall be taken into account any consideration received by the Company for such rights, options or warrants and any amount payable on exercise or conversion thereof, the fair market value of such consideration, if other than cash, to be reasonably determined by the Board in good faith.

(C) *Tender Offer or Exchange Offer Payments*. If the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for Common Stock, if the aggregate value of all cash and any other consideration included in the payment per share of Common Stock (as reasonably determined in good faith by the Board) exceeds the average of the Daily VWAP of the Common Stock over the ten (10) consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the date on which such tender offer or exchange offer expires, the Conversion Price will be decreased based on the following formula:

$$CP_1 = CP_0 \times \frac{OS_0 \times SP_1}{AC + (SP_1 \times OS_1)}$$

where,

CP_1 = the Conversion Price in effect immediately after the close of business on the last Trading Day of the ten (10) consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the date such tender or exchange offer expires;

CP_0 = the Conversion Price in effect immediately prior to the close of business on the last Trading Day of the ten (10) consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the date such tender or exchange offer expires;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the date such tender or exchange offer expires;

SP_1 = the average of the Daily VWAP of the Common Stock over the ten (10) consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the date such tender or exchange offer expires;

AC = the aggregate value of all cash and any other consideration (as reasonably determined in good faith by the Board) paid or payable for shares purchased in such tender or exchange offer; and

OS_1 = the number of shares of Common Stock outstanding immediately after the date such tender or exchange offer expires (after giving effect to such tender offer or exchange offer and excluding fractional shares).

The adjustment to the Conversion Price under this SECTION 5(g)(i)(C) will occur at the close of business on the tenth (10^{th}) Trading Day immediately following, but excluding, the date such tender or exchange offer expires; *provided* that, for purposes of determining the Conversion Price, in respect of any conversion during the ten (10) Trading Days immediately following, but excluding, the date that any such tender or exchange offer expires, references within this SECTION 5(g)(i)(C) to ten (10) consecutive Trading Days shall be deemed replaced with such lesser number of consecutive Trading Days as have elapsed between the date such tender or exchange offer expires and the relevant conversion date.

(D) *Common Stock Issued at Less than Conversion Price.* If, after the Original Issue Date, with respect to the next $45 million of Additional Permitted Preferred Stock issued or sold by the Company, the Company issues or sells any such Additional Permitted Preferred Stock for consideration per share of Common Stock (determined pursuant to SECTION 5(g)(i)(D)(4)) less than the Conversion Price in effect as of the date of such issuance or sale but equal to or greater than $6.50 per share (as adjusted for any splits, combinations, reclassifications or similar adjustments to the Common Stock during such period), the Conversion Price in effect immediately prior to each such issuance or sale will (except as provided below) be adjusted at the time of such issuance or sale to be equal to such per share consideration. If, after the Original Issue Date, with respect to the next $45 million of Additional Permitted Preferred Stock issued or sold by the Company, the Company issues or sells any Additional Permitted Preferred Stock for no consideration or for consideration per share of Common Stock (determined pursuant to SECTION 5(g)(i)(D)(4)) less than $6.50 per share (as adjusted for any splits,

combinations, reclassifications or similar adjustments to the Common Stock during such period), the Conversion Price in effect immediately prior to each such issuance or sale will (except as provided below) be adjusted at the time of such issuance or sale based on the formula set forth in the following sentence, except that for purposes of such calculation, CP_0 shall be equal to $6.50 per share (as adjusted for any splits, combinations, reclassifications or similar adjustments to the Common Stock during such period). If, after the Original Issue Date, the Company issues or sells any Common Stock (or Option Securities or Convertible Securities, to the extent set forth in this SECTION 5(g)(i)(D)), other than (x) Excluded Stock or (y) the next $45 million of Additional Permitted Preferred Stock issued or sold by the Company, for no consideration or for consideration per share less than the Conversion Price in effect as of the date of such issuance or sale, the Conversion Price in effect immediately prior to each such issuance or sale will (except as provided below) be adjusted at the time of such issuance or sale based on the following formula:

$$CP_1 = CP_0 \text{ x } \frac{OS_0 + X}{OS_0 + Y}$$

where,

CP_1 = the Conversion Price in effect immediately following such issuance or sale;

CP_0 = the Conversion Price in effect immediately prior to such issuance or sale;

OS_0 = the number of shares of Common Stock outstanding immediately prior to such issuance or sale (treating for this purpose as outstanding all shares of Common Stock issuable upon the conversion or exchange of (x) all Preferred Shares issued on the Original Issue Date, (y) all shares of Existing Series A Preferred Stock and Additional Permitted Preferred Stock and (z) all convertible, exchangeable or exercisable Equity Securities of the Company not listed in (x) or (y) if the conversion price, exercise price or exchange price applicable to such Equity Securities of the Company is below Market Value on the determination date) outstanding immediately prior to such issuance or sale;

X = the number of shares of Common Stock that the aggregate consideration received by the Company for the number of shares of Common Stock so issued or sold would purchase at a price per share equal to CP_0; and

Y = the number of additional shares of Common Stock so issued.

For the purposes of any adjustment of the Conversion Price pursuant to this SECTION 5(g)(i)(D), the following provisions shall be applicable:

(1) In the case of the issuance of Common Stock for cash, the amount of the consideration received by the Company shall be deemed to be the amount of the cash proceeds received by the Company for such Common Stock after deducting therefrom any discounts or commissions allowed, paid or incurred by the Company for any underwriting or otherwise in connection with the issuance and sale thereof.

(2) In the case of the issuance of Common Stock (otherwise than upon the conversion of shares of Capital Stock or other securities of the Company) for a consideration in whole or in part other than cash, including securities acquired in exchange

therefor (other than securities by their terms so exchangeable), the consideration other than cash shall be deemed to be the fair market value thereof as reasonably determined by the Board in good faith.

(3) For the avoidance of doubt, the provisions of this SECTION 5(g)(i)(D) shall apply to any issuance of Additional Permitted Preferred Stock that are Convertible Securities and meet the criteria for requiring an adjustment under this SECTION 5(g)(i)(D).

(4) In the case of (A) the issuance of Option Securities (whether or not at the time exercisable) or (B) the issuance of Convertible Securities (whether or not at the time so convertible or exchangeable):

i) the issuance of Option Securities shall be deemed the issuance of all shares of Common Stock deliverable upon the exercise of such Option Securities;

ii) such Option Securities shall be deemed to be issued for a consideration equal to the value of the consideration (determined in the manner provided in SECTION 5(g)(i)(D)(1) and (2)), if any, received by the Company for such Option Securities, plus the exercise price, strike price or purchase price provided in such Option Securities for the Common Stock covered thereby;

iii) the issuance of Convertible Securities shall be deemed the issuance of all shares of Common Stock deliverable upon conversion of, or in exchange for, such Convertible Securities;

iv) such Convertible Securities shall be deemed to be issued for a consideration equal to the value of the consideration (determined in the manner provided in SECTION 5(g)(i)(D)(1) and (2) and excluding any cash received on account of accrued interest or accrued dividends), if any, received by the Company for such Convertible Securities, plus the value of the additional consideration (determined in the manner provided in SECTION 5(g)(i)(D)(1) and (2)) to be received by the Company upon the conversion or exchange of such Convertible Securities, if any;

v) upon any change in the number of shares of Common Stock deliverable upon exercise of any Option Securities or Convertible Securities or upon any change in the consideration to be received by the Company upon the exercise, conversion or exchange of such securities, the Conversion Price then in effect shall be readjusted to such Conversion Price as would have been in effect had such change been in effect, with respect to any Option Securities or Convertible Securities outstanding at the time of the change, at the time such Option Securities or Convertible Securities originally were issued;

vi) upon the expiration or cancellation of Option Securities (without exercise), or the termination of the conversion or exchange rights of Convertible

Securities (without conversion or exchange), if the Conversion Price shall have been adjusted upon the issuance of such expiring, canceled or terminated securities, the Conversion Price shall be readjusted to such Conversion Price as would have been obtained if, at the time of the original issuance of such Option Securities or Convertible Securities, the expired, canceled or terminated Option Securities or Convertible Securities, as applicable, had not been issued;

vii) if the Conversion Price shall have been fully adjusted upon the issuance of any such options, warrants, rights or convertible or exchangeable securities, no further adjustment of the Conversion Price shall be made for the actual issuance of Common Stock upon the exercise, conversion or exchange thereof; and

viii) if any issuance of Common Stock, Option Securities or Convertible Securities would also require an adjustment pursuant to any other adjustment provision of this SECTION 5(g)(i), then only the adjustment most favorable to the Holders shall be made.

(ii) If the Company issues rights, options or warrants that are only exercisable upon the occurrence of certain triggering events (each, a "Trigger Event"), then the Conversion Price will not be adjusted pursuant to SECTION 5(g)(i)(B) until the earliest Trigger Event occurs, and the Conversion Price shall be readjusted to the extent any of these rights, options or warrants are not exercised before they expire (provided, however, that, for the avoidance of doubt, if such Trigger Event would require an adjustment pursuant to SECTION 5(g)(i)(D), such adjustment pursuant to SECTION 5(g)(i)(D) shall be made at the time of issuance of such rights, options or warrants in accordance with such Section).

(iii) Notwithstanding anything in this SECTION 5(g) to the contrary, if a Conversion Price adjustment becomes effective pursuant to any of clauses (A), (B) or (C) of this SECTION 5(g)(i) on any Ex-Date as described above, and a Holder that converts its Preferred Shares on or after such Ex-Date and on or prior to the related record date would be treated as the record holder of shares of Common Stock as of the related Conversion Date based on an adjusted Conversion Price for such Ex-Date and participate on an adjusted basis in the related dividend, distribution or other event giving rise to such adjustment, then, notwithstanding the foregoing Conversion Price adjustment provisions, the Conversion Price adjustment relating to such Ex-Date will not be made for such converting Holder. Instead, such Holder will be treated as if such Holder were the record owner of the shares of Common Stock on an un-adjusted basis and participate in the related dividend, distribution or other event giving rise to such adjustment.

Notwithstanding anything in this SECTION 5(g) to the contrary, no adjustment under SECTION 5(g)(i) need be made to the Conversion Price unless such adjustment would require a decrease of at least 1% of the Conversion Price then in effect. Any lesser adjustment shall be carried forward and shall be made at the time of and together with the next subsequent adjustment, if any, which, together with any adjustment or adjustments so carried forward, shall amount to a decrease of at least 1% of such Conversion Price; *provided* that, on the date of any conversion of the Preferred Shares pursuant to SECTION 5, adjustments to the Conversion Price will be made with respect to any such adjustment carried forward that has not been taken into account before such date. In

addition, at the end of each year, beginning with the year ending December 31, 2011, the Conversion Price shall be adjusted to give effect to any adjustment or adjustments so carried forward, and such adjustments will no longer be carried forward and taken into account in any subsequent adjustment.

(iv) Adjustments Below Par Value. The Company shall not take any action that would require an adjustment to the Conversion Price such that the Conversion Price, as adjusted to give effect to such action, would be less than the then-applicable par value per share of the Common Stock, except that the Company may undertake a share split or similar event if such share split results in a corresponding reduction in the par value per share of the Common Stock such that the as-adjusted new Conversion Price per share would not be below the new as-adjusted par value per share of the Common Stock following such share split or similar transaction and the Conversion Price is adjusted as provided under SECTION 5(g)(i)(A) and any other applicable provision of SECTION 5(g).

(v) Reference Property. In the case of any Going Private Event or recapitalization, reclassification or change of the Common Stock (other than changes resulting from a subdivision, combination or reclassification described in SECTION 5(g)(i)(A)), a consolidation, merger or combination involving the Company, a sale, lease or other transfer to a third party of all or substantially all of the assets of the Company (or the Company and its Subsidiaries on a consolidated basis), or any statutory share exchange, in each case as a result of which the Common Stock would be converted into, or exchanged for, stock, other securities, other property or assets (including cash or any combination thereof) (any of the foregoing, a "Transaction"), then, at the effective time of the Transaction, the right to convert each Preferred Share will be changed into a right to convert such Preferred Share into the kind and amount of shares of stock, other securities or other property or assets (including cash or any combination thereof) (the "Reference Property") that a Holder would have received in respect of the Common Stock issuable upon conversion of such Preferred Shares immediately prior to such Transaction. In the event that holders of Common Stock have the opportunity to elect the form of consideration to be received in the Transaction, the Company shall make adequate provision whereby the Holders shall have a reasonable opportunity to determine the form of consideration into which all of the Preferred Shares, shares of Existing Series A Preferred Stock and shares of Additional Permitted Preferred Stock, treated as a single class, shall be convertible from and after the effective date of the Transaction. For so long as the Fortress Investor Group owns a number of shares of Existing Series A Preferred Stock equal to or greater than 50% of the Initial Preferred Share Amount, such determination shall be made by the Fortress Investor; thereafter, any such election shall be made by the Majority Holders. Any such determination by the Holders shall be subject to any limitations to which all holders of Common Stock are subject, such as pro rata reductions applicable to any portion of the consideration payable in the Transaction, and shall be conducted in such a manner as to be completed at approximately the same time as the time elections are made by holders of Common Stock. The provisions of this SECTION 5(g)(v) and any equivalent thereof in any such securities similarly shall apply to successive Transactions. The Company shall not become a party to any Transaction unless its terms are in compliance with the foregoing.

(vi) Rules of Calculation; Treasury Stock. All calculations will be made to the nearest one-hundredth of a cent or to the nearest one-ten thousandth of a share. Except as explicitly provided herein, the number of shares of Common Stock (or Reference Property, to the extent applicable) outstanding will be calculated on the basis of the number of issued and outstanding shares of Common Stock (or Reference Property, to the extent applicable), not including shares held in the treasury of the Company. The Company shall not pay any dividend on or make any distribution to shares of Common Stock (or Reference Property, to the extent applicable) held in treasury.

(vii) No Duplication. If any action would require adjustment of the Conversion Price pursuant to more than one of the provisions described in this SECTION 5 in a manner such that such adjustments are duplicative, only one adjustment (which shall be the adjustment most favorable to the Holders) shall be made.

(viii) Notice of Record Date. In the event of:

(A) any event described in SECTION 5(g)(i)(A), (B), (C) or (D);

(B) any Transaction to which SECTION 5(g)(v) applies;

(C) the dissolution, liquidation or winding-up of the Company; or

(D) any other event constituting a Change of Control or a Going Private Event;

then the Company shall mail to the Holders at their last addresses as shown on the records of the Company, at least twenty (20) days prior to the record date specified in (A) below or twenty (20) days prior to the date specified in (B) below, as applicable, a notice stating:

(A) the record date for the dividend, other distribution, stock split or combination or, if a record is not to be taken, the date as of which the holders of Common Stock of record to be entitled to such dividend, other distribution, stock split or combination; or

(B) the date on which such reclassification, change, dissolution, liquidation, winding-up or other event constituting a Transaction, Change of Control or Going Private Event, or any transaction which would result in an adjustment pursuant to SECTION 5(g)(i)(D), is estimated to become effective or otherwise occur, and the date as of which it is expected that holders of Common Stock of record will be entitled to exchange their shares of Common Stock for Reference Property, other securities or other property deliverable upon such reclassification, change, liquidation, dissolution, winding-up, Transaction, Change of Control or Going Private Event or that such issuance of Common Stock, Option Securities or Convertible Securities is anticipated to occur.

(ix) Certificate of Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price pursuant to this SECTION 5, the Company at its expense

shall as promptly as reasonably practicable compute such adjustment or readjustment in accordance with the terms hereof and furnish to each Holder a certificate, signed by an officer of the Company (in his or her capacity as such and not in an individual capacity), setting forth (A) the calculation of such adjustments and readjustments in reasonable detail, (B) the facts upon which such adjustment or readjustment is based, (C) the Conversion Price then in effect, and (D) the number of shares of Common Stock (or Reference Property, to the extent applicable) and the amount, if any, of Capital Stock, other securities or other property (including but not limited to cash and evidences of indebtedness) which then would be received upon the conversion of a Preferred Share.

(x) No Upward Revisions to Conversion Price. For the avoidance of doubt, except in the case of a reverse share split or share combination resulting in an adjustment under SECTION 5(g)(i)(A) effected with the approvals, if any, required pursuant to SECTION 4(b), in no event shall any adjustment be made pursuant to this SECTION 5 that results in an increase in the Conversion Price.

SECTION 6. Redemption.

(a) Redemption at Option of Holder on Maturity Date. Each Holder shall have the right to require the Company to redeem such Holder's Preferred Shares, in whole or in part, on the seventh (7^{th}) anniversary of May 13, 2011 (the "Maturity Date") at a price per share payable, subject to SECTION 6(e), in cash and equal to the Redemption Price. At any time during the period beginning on the thirtieth (30^{th}) calendar day prior to the Maturity Date (the "Holder Redemption Notice Period"), each Holder may deliver written notice to the Company notifying the Company of such Holder's election to require the Company to redeem all or a portion of such Holder's Preferred Shares on the Maturity Date (the "Election Notice"). No later than thirty (30) calendar days prior to the commencement of the Holder Redemption Notice Period, the Company shall deliver a notice to each Holder including the following information: (A) informing the Holder of the Maturity Date and such Holder's right to elect to have all or a portion of its Preferred Shares redeemed by Company on the Maturity Date, (B) the Redemption Price payable with respect to each share of Series A-2 Preferred Stock on the Maturity Date in connection with any such redemption (to the extent the Redemption Price is known or can be calculated, and to the extent not capable of being calculated, the manner in which such price will be determined); (C) that any certificates representing Preferred Shares which a Holder elects to have redeemed must be surrendered for payment of the Redemption Price at the office of the Company or any redemption agent located in New York City selected by the Company therefor together with any written instrument or instructions of transfer or other documents and endorsements reasonably acceptable to the redemption agent or the Company, as applicable (if reasonably required by the redemption agent or the Company, as applicable); (D) that, upon a Holder's compliance with clause (C), payment of the Redemption Price with respect to any Preferred Shares to be made on the Maturity Date will be made to the Holder within five (5) Business Days of the Maturity Date to the account specified in such Holder's redemption election notice; (E) that any Holder may withdraw its Election Notice with respect to all or a portion of its Preferred Shares at any time prior to 5:00 p.m. (New York City time) on the Business Day immediately preceding the Maturity Date; and (F) the number of shares of Common Stock (or, if applicable, the amount of Reference Property) and the amount of cash, if any, that a Holder would

receive upon conversion of a Preferred Share if a Holder does not elect to have its Preferred Shares redeemed. The Company shall issue a press release for publication on the Dow Jones News Service or Bloomberg Business News (or if either such service is not available, another broadly disseminated news or press release service selected by the Company) prior to the opening of business on the first Business Day following any date on which the Company provides notice to Holders pursuant to this SECTION 6(a) disclosing the right of Holders to have the Company redeem Preferred Shares pursuant to this SECTION 6(a).

(b) Optional Redemption by the Company. On and after the third (3rd) anniversary of May 13, 2011, the Company may, at its option, redeem all (but not less than all) of the outstanding Preferred Shares for cash equal to the Redemption Price. If the Company elects to redeem the Preferred Shares pursuant to this SECTION 6(b), the Company shall deliver a notice of redemption to the Holders not less than thirty (30) or more than sixty (60) calendar days prior to the date specified for redemption (the "Optional Redemption Date"), which notice shall include: (A) the Optional Redemption Date; (B) the Redemption Price; (C) that on the Optional Redemption Date, if the Holder has not previously elected to convert Preferred Shares into Common Stock, each Preferred Share shall automatically and without further action by the Holder thereof (and whether or not the certificates representing such Preferred Shares are surrendered) be redeemed for the Redemption Price; (D) that payment of the Redemption Price will be made to the Holder within five (5) business days of the Redemption Date to the account specified by such Holder to the Company in writing; (E) that the Holder's right to elect to convert its Preferred Shares will end at 5:00 p.m. (New York City time) on the Business Day immediately preceding the Optional Redemption Date; and (F) the number of shares of Common Stock (or, if applicable, the amount of Reference Property) and the amount of cash, if any, that a Holder would receive upon conversion of a Preferred Share if a Holder elect to convert its Preferred Shares prior to the Optional Redemption Date. Notwithstanding the foregoing, any notice delivered by the Company under this SECTION 6(b) in accordance with SECTION 10(g) shall be conclusively presumed to have been duly given at the time set forth therein, whether or not such Holder of Preferred Shares actually receives such notice, and neither the failure of a Holder to actually receive such notice given as aforesaid nor any immaterial defect in such notice shall affect the validity of the proceedings for the redemption of the Preferred Shares as set forth herein. The Company shall issue a press release for publication on the Dow Jones News Service or Bloomberg Business News (or if either such service is not available, another broadly disseminated news or press release service selected by the Company) prior to the opening of business on the first Business Day following any date on which the Company provides notice to Holders pursuant to this SECTION 6(b) announcing the Company’s election to redeem Preferred Shares pursuant to this SECTION 6(b).

(c) Redemption at Option of the Holder upon a Change of Control.

(i) If a Change of Control occurs, each Holder shall have the right to require the Company to redeem its Preferred Shares pursuant to a Change of Control Offer, which Change of Control Offer shall be made by the Company in accordance with Section 6(c)(ii). In such Change of Control Offer, the Company will offer a payment (such payment, a "Change of Control Payment") in cash per Preferred Share equal to the sum of (x) 101% of the Purchase Price, and (y)

accrued and unpaid Dividends thereon, if any, to the extent not included in the Purchase Price (including, without limitation, accrued and unpaid Cash Dividends and accrued and unpaid Accreting Dividends for the then current Dividend Period).

(ii) Within thirty (30) days following any Change of Control, the Company will mail a notice (a "Change of Control Offer") to each Holder describing the transaction or transactions that constituted such Change of Control and offering to redeem the Preferred Shares on the date specified in such notice (the "Change of Control Payment Date"), which date shall be no earlier than thirty (30) days and no later than sixty-one (61) days from the date such notice is mailed. In addition, such Change of Control Offer shall further state: (A) the amount of the Change of Control Payment; (B) that the Holder may elect to have all or any portion of its Preferred Shares redeemed pursuant to the Change of Control Offer, (C) that any Preferred Shares to be redeemed must be surrendered for payment of the Change of Control Payment at the office of the Company or any redemption agent selected by the Company therefor together with any written instrument or instructions of transfer or other documents and endorsements reasonably acceptable to the redemption agent or the Company, as applicable (if reasonably required by the redemption agent or the Company, as applicable); (D) that, upon a Holder's compliance with clause (C), payment of the Change of Control Payment with will be made to the Holder on the Change of Control Payment Date to the account specified by such Holder to the Company in writing; (E) the date and time by which the Holder must make its election, (F) that any Holder may withdraw its election notice with respect to all or a portion of their Preferred Shares at any time prior to 5:00 p.m. (New York City time) on the Business Day immediately preceding the Change of Control Payment Date; and (G) the amount and type of property that the Holder would receive in connection with such Change of Control if the Holder elects to convert its Preferred Shares in connection with the Change of Control. The Company shall issue a press release for publication on the Dow Jones News Service or Bloomberg Business News (or if either such service is not available, another broadly disseminated news or press release service selected by the Company) prior to the opening of business on the first Business Day following any date on which the Company provides notice to Holders pursuant to this SECTION 6(c) disclosing the right of Holders to have the Company redeem Preferred Shares pursuant to this SECTION 6(c).

(iii) On the Change of Control Payment Date, the Company will, to the extent lawful: (A) accept for payment all Preferred Shares validly tendered pursuant to the Change of Control Offer; and (B) make a Change of Control Payment to each Holder that validly tendered Preferred Shares pursuant to the Change of Control Offer.

(iv) Notwithstanding anything to the contrary contained in this SECTION 6(c), the Company shall not be required to consummate the repurchase of Preferred Shares contemplated by this SECTION 6(c) unless and until the Company has repurchased the Senior Notes as required by the Indenture with regard to the Change of Control (provided, however, that the failure to repurchase Preferred Shares at any time required by this SECTION 6(c), even if such repurchase cannot be made as a result of this clause (iv), will constitute a Specified Breach Event).

(v) If at any time prior to consummation of a transaction that would constitute a Change of Control, the Company has publicly announced (whether by press release, SEC filing or otherwise) such transaction or prospective transaction or the entry by the Company into any definitive agreement with respect thereto, the Company shall, within five (5) Business Days of the issuance of such public announcement, deliver a written notice to each Holder notifying them of the same and the anticipated date of consummation of such transaction.

(vi) The Company will not be required to make a Change of Control Offer upon a Change of Control if a third party makes the Change of Control Offer and makes the Change of Control Payment in the manner, at the times and otherwise in compliance with the requirements set forth herein applicable to a Change of Control Offer made by the Company and purchases all Preferred Shares validly tendered under such Change of Control Offer.

(vii) A Change of Control Offer may be made in advance of a Change of Control, conditional upon such Change of Control, if a definitive agreement is in place for the Change of Control at the time of making of the Change of Control Offer.

(d) Notwithstanding anything in this SECTION 6 to the contrary, each Holder shall retain the right to elect to convert any Preferred Shares to be redeemed at any time prior to 5:00 p.m. (New York City time) on the Business Day immediately preceding any Redemption Date. Any Preferred Shares that a Holder elects to convert prior to the Redemption Date shall not be redeemed pursuant to this SECTION 6.

(e) Insufficient Funds. Any redemption of the Preferred Shares pursuant to this SECTION 6 shall be payable out of any cash legally available therefor, provided, however, that, other than in respect of a redemption pursuant to SECTION 6(b) (which the Company may only effectuate to the extent it has sufficient cash legally available therefor), if there is not a sufficient amount of cash legally available to pay the Redemption Price in full in cash, then the Company may pay that portion of the Redemption Price with respect to which it does not have cash legally available therefor out of the remaining assets of the Company legally available therefor (valued at the fair market value thereof on the date of payment, as reasonably determined in good faith by the Board). If the Company anticipates not having sufficient cash legally available for a redemption pursuant to SECTION 6(a) or SECTION 6(c), the redemption notice delivered to Holders shall so specify, and indicate the nature of the other assets expected to be distributed and the fair market value of the same as reasonably determined by the Board as aforesaid. At the time of any redemption pursuant to this SECTION 6, the Company shall take all actions required or permitted under Delaware law to permit the redemption of the Preferred Shares, including, without limitation, through the revaluation of its assets in accordance with Delaware law, to make cash funds (and to the extent cash funds are insufficient, other assets) legally available for such redemption. In connection with any redemption pursuant to SECTION 6(c), to the extent that Holders elect to have their Preferred Shares redeemed and the Company has insufficient funds to redeem such Preferred Shares (after taking into account the amount of any repurchase obligations the Company has or expects to have under the Senior Notes (or any other Debt ranking senior to the Series A-2 Preferred Stock), Senior Securities or any Parity Securities resulting from the same facts and circumstances as the

Change of Control hereunder), the Company shall use any available funds to redeem a portion of such Preferred Shares and Parity Securities (if any are being redeemed) ratably in proportion to the full respective amounts to which they are entitled; *provided*, *however*, that the failure for any reason to redeem all Preferred Shares required to be redeemed under SECTION 6(c) when required shall constitute a Specified Breach Event.

(f) Mechanics of Redemption.

(i) The Company (or a redemption agent on behalf of the Company, as applicable) shall pay the applicable Redemption Price on the Redemption Date or the required payment date therefor upon surrender of the certificates representing the Preferred Shares to be redeemed and receipt of any written instrument or instructions of transfer or other documents and endorsements reasonably acceptable to the redemption agent or the Company, as applicable, to the extent required by SECTIONS 6(a), 6(b) and 6(c); *provided* that, if such certificates are lost, stolen or destroyed, the Company may require an affidavit certifying to such effect and, if requested, an agreement indemnifying the Company from any losses incurred in connection therewith, in each case, in form and substance reasonably satisfactory to the Company, from such Holder prior to paying such amounts.

(ii) Following any redemption of Preferred Shares on any Redemption Date, the Preferred Shares so redeemed will no longer be deemed to be outstanding and all rights of the Holder thereof shall cease, including the right to receive Dividends; *provided*, *however*, that any rights of Holders pursuant to this Certificate of Designation that by their terms survive redemption of the Preferred Shares and, for the avoidance of doubt, any rights that survive pursuant to any of the other Transaction Agreements (as defined in the Securities Purchase Agreement), shall survive in accordance with their terms. The foregoing notwithstanding, in the event that a Preferred Share is not redeemed by the Company when required, such Preferred Share will remain outstanding and will continue to be entitled to all of the powers, designations, preferences and other rights (including but not limited to the accrual and payment of dividends and the conversion rights) as provided herein.

SECTION 7. Specified Breach Events.

(a) The following events shall constitute "Specified Breach Events":

(i) an "Event of Default" has occurred and is continuing under the Indenture; or an "event of default" has occurred and is continuing with respect to any other indenture, credit agreement or similar documentation related to an aggregate of $25,000,000 or more in principal amount of indebtedness of the Company for borrowed money incurred after the Original Issue Date; *provided* that, a Specified Breach Event shall cease to exist once the underlying event of default in respect of such indebtedness has been waived or cured or such indebtedness has been repaid;

(ii) any Significant Subsidiary fails to repay any indebtedness for borrowed money within any applicable grace period after final maturity or the acceleration of any indebtedness for borrowed money of a Significant Subsidiary because of a default, in each case

where the total amount of such unpaid or accelerated indebtedness exceeds $25,000,000; *provided* that, such a Specified Breach Event shall cease to exist once the underlying event of default in respect of such indebtedness has been waived or cured or such indebtedness has been repaid;

(iii) the Company fails to declare and pay any Cash Dividends or Accreting Dividends due on any Dividend Payment Date and such failure continues for a period of ninety (90) days; *provided* that, any such Specified Breach Event shall cease to exist once all Cash Dividends and Accreting Dividends in arrears through the end of the most recently completed Dividend Period have been declared and paid in full;

(iv) the Company fails to comply with the Cash Maintenance Ratio covenant set forth in SECTION 8(a) for a period of ninety (90) days; *provided* that, any such Specified Breach Event shall cease to exist on the date that an officer of the Company executes a certificate, which shall be sent to the Holders, certifying to facts showing that the Company is in compliance with such covenant for a subsequent fiscal quarter;

(v) the Company defaults in the performance of, or breaches the covenants contained in, the following sections of this Certificate of Designation or the Securities Purchase Agreement and such default or breach, if curable, is not cured within ninety (90) days: SECTION 2(c) (Participating Cash Dividends); SECTION 2(d) (In-Kind Participating Dividends); the proviso contained in SECTION 5(d)(i) (Amounts Received Upon Conversion); SECTION 6(a) (Redemption at Option of Holder on Maturity Date); SECTION 6(c) (Redemption at Option of Holder Upon a Change of Control) (including, without limitation, any delay or failure to repurchase the Preferred Shares as a result of provisions of SECTION 6(c)(iv)); and SECTION 8(b) (Issuance of Additional Preferred Stock); and

(vi) if the Company voluntarily delists its Common Stock so that the Common Stock ceases to be listed on at least one (1) Exchange or the Company shall take any action with the intent to cause the Common Stock to cease to be listed on at least one (1) Exchange, except, in either case, in connection with (A) a Going Private Event, (B) a merger or consolidation involving the Company or (C) a sale by the Company of all or substantially all of its consolidated assets, in each case where such transaction is authorized in accordance with the terms set forth in, or not prohibited by, this Certificate of Designation and where none of the transaction consideration consists of Common Stock that is listed on an Exchange; *provided* that, such a Specified Breach Event shall cease to exist upon the Common Stock again being listed on at least one (1) Exchange.

(b) Upon a Specified Breach Event and during any time that a Specified Breach Event is continuing, the Company (which, for the avoidance of doubt shall not be deemed to include any Subsidiaries of the Company except to the extent specified below) shall be prohibited from:

(i) making, and to the extent within the Company's control, permitting any of its Subsidiaries to make, any Restricted Payments (other than repurchases of shares of Common Stock in connection with the termination of an employee's, officer's or director's service to the Company or any of its Subsidiaries otherwise permitted pursuant to the terms of this Certificate of Designation (including, without limitation, SECTION 4, if applicable));

(ii) for so long as the Indenture limits the Company's ability to incur subordinated indebtedness, incurring any subordinated indebtedness (including for this purpose, Additional Permitted Preferred Stock or Parity Securities) pursuant to SECTION 4.06(b)(3) of the Indenture (or a similar provision) to the extent the Company could not do so if the Preferred Shares and any Parity Securities were assumed to be subordinated indebtedness for the purposes of the Indenture;

(iii) incurring, and to the extent within the Company's control, permitting any Intermediate Holding Company from incurring, any Debt (which term shall include, for this purpose, Senior Securities, Additional Permitted Preferred Stock and Parity Securities and shall exclude, in the case of any Intermediate Holding Company, Debt permitted to be incurred under the Indenture and incurred to finance acquisitions of businesses or operating assets to be held by a Portfolio Company in which such Intermediate Holding Company holds an equity interest or to refinance other indebtedness of such Intermediate Holding Company or any of its Subsidiaries (but only in such amount as is necessary to pay the acquisition purchase price or pay the refinanced indebtedness, as the case may be, together with any fees and expenses related thereto) if after giving effect to such incurrence, the Collateral Coverage Ratio would be less than 1.0:1.0;

(iv) entering, and to the extent within the Company's control, permitting any of its Subsidiaries from entering, into any agreement for the purchase of any debt or Equity Securities of any Portfolio Company of any Harbinger Affiliate from any Harbinger Affiliate; and

(v) entering, and to the extent within the Company's control, permitting any of its Subsidiaries to enter, into any agreement for the sale by the Company of Equity Securities of any Portfolio Company of the Company to any Harbinger Affiliate;

provided, however, that clauses (iv) and (v) shall in no way limit or restrict (x) any FS/OM Permitted Activities or (y) the sale or contribution by a Harbinger Affiliate to the Company or any Subsidiary of the Company of shares of Capital Stock of Spectrum on commercially reasonable terms at prevailing market prices using the Thirty Day VWAP for the purpose of ensuring that the Company's holdings in Spectrum do not constitute investment securities under the Investment Company Act of 1940, as amended.

Notwithstanding anything to the contrary in this SECTION 7(b), the agreements of the Company in this SECTION 7(b) insofar as they govern or purport to govern conduct concerning any Subsidiary of the Company are being made by the Company solely in its capacity as the controlling shareholder of such Subsidiary and not in any fiduciary capacity of it or any of the Subsidiary’s officers or directors, and nothing herein shall require the Company to act in any way that would cause any shareholder, director or officer of any such Subsidiary to act in a manner that would violate legally imposed fiduciary duties applicable to any such shareholder, director or officer.

(c) Subject to applicable law and compliance with the rules of The New York Stock Exchange and the Insurance Regulatory Authorities (including the requirement that an individual appointed as a Specified Breach Director not be found at any time or from time to time to be "untrustworthy" by the Insurance Regulatory Authorities), upon a Specified Breach Event and

during any time that a Specified Breach Event is continuing, upon the Company's receipt of a written notice from the Fortress Investor (at any time when the Fortress Investor Group owns a number of shares of Existing Series A Preferred Stock equal to or greater than 50% of the Initial Preferred Share Amount) or from the Majority Holders (at any time when the Fortress Investor Group owns a number of shares of Existing Series A Preferred Stock less than 50% of the Initial Preferred Share Amount), the Company shall, notwithstanding any other provision of this Certificate of Designation, increase the size of the Board by one (1) directorship (or at any time when the Purchaser Director (as defined in the Existing Series A Certificate of Designation) is not serving on the Board, two (2) directorships) (a "Specified Breach Director") and the Specified Breach Director(s) shall be elected as set forth in this section; provided that as a condition precedent to the election of a Specified Breach Director, the Fortress Investor or the Majority Holders, as applicable, shall be required to provide to the Company the duly executed and delivered written resignation of the Person to be elected as a Specified Breach Director, providing that effective immediately and automatically (without any further action by any Person) upon the earlier to occur of (x) the expiration of the applicable Breach Period or (y) the number of Fortress Representatives being reduced pursuant to SECTION 8(c) of the Existing Series A Certificate of Designation, such Specified Breach Director shall resign from the Board. For the avoidance of doubt, no Specified Breach Director shall be elected to the Board unless the written resignation referred to in the preceding sentence is delivered to the Company prior thereto. A Specified Breach Director need not be an "independent director" of the Board pursuant to the rules of the Exchange on which the Company's Common Stock is then traded. Subject to applicable law and compliance with the rules of The New York Stock Exchange and the Insurance Regulatory Authorities (including the requirement that an individual appointed as a Specified Breach Director not be found at any time or from time to time to be “untrustworthy” by the Insurance Regulatory Authorities), the Fortress Investor (at any time when the Fortress Investor Group owns a number of shares of Existing Series A Preferred Stock equal to or greater than 50% of the Initial Preferred Share Amount) or the Majority Holders (at any time when the Fortress Investor Group owns a number of shares of Existing Series A Preferred Stock less than 50% of the Initial Preferred Share Amount) shall be entitled to nominate and elect the Specified Breach Director(s) (which nominees shall be reasonably acceptable to any governance or nominating committee of the Board (or the Board if no such committee then exists)). At any time when the Fortress Investor Group owns a number of shares of Existing Series A Preferred Stock less than 50% of the Initial Preferred Share Amount, the Specified Breach Directors shall be elected (i) by the written consent of the Majority Holders or (ii) at a special meeting of the Holders (which shall be called by the Secretary of the Company at the request of any Holder) to be held within thirty (30) days of the occurrence of the Specified Breach Event, or, if the Specified Breach Event occurs less than sixty (60) days before the date fixed for the next annual meeting of the Company's stockholders, at such annual meeting. At any meeting at which the Specified Breach Director(s) will be elected, the Specified Breach Director(s) shall be elected by the holders of a majority of the shares of Existing Series A Preferred Stock held by the Fortress Investor Group (at any time when the Fortress Investor Group owns a number of shares of Existing Series A Preferred Stock equal to or greater than 50% of the Initial Preferred Share Amount) or by the Majority Holders (at any time when the Fortress Investor Group owns a number of shares of Existing Series A Preferred Stock less than 50% of the Initial Preferred Share Amount). The Specified Breach Director(s) will serve until there ceases to be any Preferred Shares or shares of Existing Series A Preferred Stock outstanding or until no Specified

Breach Event exists or is continuing, whichever occurs earliest (the "Breach Period") and, upon the expiration of an applicable Breach Period, the director seat(s) held by the Specified Breach Director(s) shall be automatically eliminated and the size of the Board shall be reduced accordingly. If there is a vacancy in the office of a Specified Breach Director during a Breach Period, then the vacancy may only be filled by a nominee (which nominees shall be reasonably acceptable to any governance or nominating committee of the Board (or the Board if no such committee then exists)) upon the written consent or vote of the Fortress Investor (at any time when the Fortress Investor Group owns a number of shares of Existing Series A Preferred Stock equal to or greater than 50% of the Initial Preferred Share Amount) or the Majority Holders (at any time when the Fortress Investor Group owns a number of shares of Existing Series A Preferred Stock less than 50% of the Initial Preferred Share Amount. Each Specified Breach Director will be entitled to one (1) vote on any matter with respect to which the Board votes. During the Breach Period, any Specified Breach Director may be removed at any time with or without cause by, and shall not be removed otherwise than by, the written consent or vote of the Fortress Investor (at any time when the Fortress Investor Group owns a number of shares of Existing Series A Preferred Stock equal to or greater than 50% of the Initial Preferred Share Amount) or the Majority Holders (at any time when the Fortress Investor Group owns a number of shares of Existing Series A Preferred Stock less than 50% of the Initial Preferred Share Amount). If after the appointment of a Specified Breach Director the applicable Breach Period expires, if so requested by the Company, the Investor shall promptly cause to resign, and take all other action reasonably necessary, or reasonably requested by the Company, to cause the prompt removal of, such Specified Breach Director. The Investor Director (as defined in the Existing Series A Certificate of Designation), if any, the Additional Preferred Directors (as defined in the Existing Series A Certificate of Designation), if any and the Specified Breach Directors (if any), shall be spread as evenly as practicable among the classes of directors. Notwithstanding anything to the contrary contained in this SECTION 7(c), no Specified Breach Directors shall be appointed (whether or not a Specified Breach Event has occurred and is continuing) during any period when Additional Preferred Directors have been appointed to the Board.

(d) Whether or not a Specified Breach Event has occurred and is continuing under SECTION 7(a)(iii), if the Company fails to declare and pay Dividends (other than Participating Dividends) due on any Dividend Payment Date or Participating Dividends when dividends are paid to the holders of Common Stock, then until such accrued and unpaid Dividends are paid, the Company shall be prohibited from (i) declaring, paying or setting apart for payment, any dividends or other distributions on the Common Stock or other Junior Securities, (ii) redeeming, purchasing or otherwise acquiring for any consideration any Common Stock or Junior Securities and (iii) declaring, paying or setting apart for payment, any dividends or other distributions on any Parity Securities; *provided* that, dividends or distributions otherwise prohibited by clause (iii) may be declared, paid or set aside on a pro rata basis among the Preferred Shares and the shares of Parity Securities in proportion to the amounts to which they are entitled.

(e) Notwithstanding any other provisions of this Certificate of Designation or the Securities Purchase Agreement, if at any time (i) the number of Fortress Representatives to which the Fortress Investor is then entitled (collectively, the "Fortress Director Representation Amount") exceeds (ii) the number (the "Proportionate Representation Amount") equal to, rounded up to the

nearest whole number (A) the percentage of the Company's Voting Stock held by the Fortress Investor Group (assuming, for such purposes, that any securities held by the Fortress Investor Group and convertible, exchangeable or exercisable for Voting Stock of the Company are so converted, exchanged or exercised), divided by (B) the number of votes applicable to all Voting Stock of the Company (assuming, for such purposes, that any securities held by the Fortress Investor Group and convertible, exchangeable or exercisable for Voting Stock of the Company are so converted, exchanged or exercised), multiplied by (C) the total number of seats on the Board, then, unless not required pursuant to the rules of The New York Stock Exchange or any other stock exchange on which the Company's Common Stock may then be listed, the Fortress Director Representation Amount and, if necessary, the number of Fortress Representatives shall be reduced until the Fortress Director Representation Amount and the number of Appointed Directors equals the greater of one and the Proportionate Representation Amount;

provided, however, that the Fortress Director Representation Amount and the number of Fortress Representatives shall thereafter again be increased from time to time if and to the extent that, at such time, the Fortress Investor would be entitled to appoint such additional Fortress Representatives and the appointment of such additional Fortress Representatives would not cause the Fortress Director Representation Amount to exceed the Proportionate Representation Amount. Any vacancy created on the Board as a result of the operation of the foregoing procedures shall be required to be filled by the Company by an individual who is "independent" as defined in Section 303A of The New York Stock Exchange Listed Company Manual and who is not, nor ever has been, an employee of the Company, any of its Subsidiaries, any Harbinger Affiliate or any Portfolio Company of any Harbinger Affiliate.

SECTION 8. Covenants.

(a) Cash Maintenance Ratio. During the period beginning on the Original Issue Date and ending on March 31, 2012, the Company shall not permit, on the last day of each fiscal quarter ending on or prior to March 31, 2012, the ratio of the Company's Cash Equivalents to Fixed Charges for the prior four (4) quarters then ended to be less than 1.0 to 1.0 (the "Cash Maintenance Ratio"); *provided* that, for the first three (3) fiscal quarters ending after the Original Issue Date, the actual amount of Fixed Charges incurred since the Original Issue Date shall be annualized to reflect a full year of 365 days.

(b) Issuance of Additional Preferred Stock. After the date hereof, the Company may issue additional shares of Series A-2 Preferred Stock or Parity Securities (the "Additional Permitted Preferred Stock") provided that the aggregate purchase price of all outstanding shares of Series A-2 Preferred Stock and Parity Securities may not, except to the extent set forth in the following sentence, exceed $400.0 million. The Company shall not, on or after the Original Issue Date, issue any (x) Parity Securities in excess of the Additional Permitted Preferred Stock authorized by the preceding sentence or (y) Senior Securities unless one of the following conditions (the "Incurrence Based Issuance Limits") is satisfied (and, in the case of Senior Securities, subject to receipt of the required approval of the Majority Holders and, if applicable, the Fortress Investor, as

set forth under SECTIONS 4(b)(i)(B) and 4(b)(ii)(A) of the Existing Series A Certificate of Designation):

(i) if the Company's Total Secured Debt is less than $400.0 million, the Pro Forma Collateral Coverage Ratio after such issuance would be greater than the number equal to (x) the collateral coverage ratio set forth in Section 4.18 of the Indenture (or a successor provision) applicable at times when the Company's Total Secured Debt outstanding is less than $400.0 million less (y) 0.5 (which, for example, means the Pro Forma Collateral Coverage Ratio exceeds 1.5 to 1.0 as of the date hereof because the collateral coverage ratio set forth in the Indenture as in effect on the date hereof is 2.0 to 1.0); or

(ii) if the Company's Total Secured Debt is equal to or greater than $400.0 million, the Pro Forma Collateral Coverage Ratio after such issuance would be greater than the number equal to (x) the collateral coverage ratio set forth in Section 4.18 of the Indenture (or a successor provision) applicable at times when the Company's Total Secured Debt outstanding is equal to or greater than $400.0 million less (y) 0.5 (which, for example, means the Pro Forma Collateral Coverage Ratio exceeds 2.0 to 1.0 as of the date hereof because the collateral coverage ratio set forth in the Indenture as in effect on the date hereof is 2.5 to 1.0).

Notwithstanding the foregoing, the Incurrence Based Issuance Limits shall cease to apply, and the conditions in the foregoing clauses (i) and (ii) shall be deemed satisfied, from and after the first date on which both (x) the Company Conversion Conditions and (y) the Public Float Hurdle are satisfied.

For the avoidance of doubt, no Series A-2 Preferred Stock or Parity Securities shall be issuable or deemed issued pursuant to the second sentence of this SECTION 8(b) unless and until the aggregate issue price of the Existing Series A Preferred Stock issued on May 13, 2011, plus the Series A-2 Preferred Stock issued on the Original Issue Date, plus the aggregate issue price of Additional Permitted Preferred Stock issued or deemed issued pursuant to the first sentence of this SECTION 8(b) equals $400 million.

Any Parity Securities or Senior Securities issued after the Original Issue Date pursuant to this SECTION 8(b) (other than the Additional Permitted Preferred Stock), are referred to herein as the "Additional Preferred Securities").

(c) Use of Proceeds from Preferred Shares. The Company shall not, within 180 days after May 13, 2011, (i) make any Restricted Payments, or (ii) redeem or repurchase any of the Senior Notes; *provided* that, notwithstanding the foregoing, the Company may pursuant to this covenant (x) (a) repurchase or redeem Equity Securities of the Company or any securities that are linked to Equity Securities of the Company held by employees of the Company upon such employee's termination, death or disability, (b) repurchase Equity Securities of the Company deemed to occur upon the exercise of stock options or warrants if the Equity Securities represent all or a portion of the exercise price thereof (or related withholding taxes) and (c) make Restricted Payments to allow the customary payment of cash in lieu of the issuance of fractional shares upon the exercise

of options or warrants or upon the conversion or exchange of Equity Securities of the Company; and (y) make Restricted Payments or redeem or repurchase any of the Senior Notes to the extent that the funds used to make such Restricted Payments or to redeem or repurchase any of the Senior Notes, as applicable, consist of either dividend proceeds from operations received by the Company from earnings of its Subsidiaries or proceeds from an initial public offering of F&G (as defined in the Securities Purchase Agreement) or a Subsidiary thereof. For the avoidance of doubt, to the extent any of the foregoing actions are subject to any other covenants or conditions pursuant to any other provisions of this Certificate of Designation (including, without limitation, SECTION 4), such action shall be required to comply with such other provisions.

(d) Certificates. The Company shall promptly, and in no event later than 30 days after the last day of any calendar quarter, furnish to each Holder a certificate of an officer of the Company setting forth, as of the end of such calendar quarter the Cash Maintenance Ratio and the calculation of the same (provided that the Company shall not be obligated to provide the information required by this sentence from and after such time as the covenant in SECTION 8(a) ceases to be applicable).

(i) The Company shall promptly, and in no event later than the 30th day after the first day of a Dividend Period for which the Accreting Dividend rate has been adjusted pursuant to SECTION 2(b), furnish to each Holder a certificate of an officer of the Company setting forth, as of the end of the prior Dividend Period the Net Asset Value as of the end of such prior Dividend Period and the calculation of the same.

(ii) If the Company issues any Additional Preferred Securities pursuant to SECTION 8(b), the Company shall promptly, and in no event later than five (5) days after the date of such issuance, furnish to each Holder a certificate of an officer of the Company setting forth, to the extent required to be complied with in connection with such issuance, the amount of Total Secured Debt and the Collateral Coverage Ratio as of the date of such issuance, the Pro Forma Collateral Coverage Ratio after giving effect to such issuance, and the calculations relating to the same.

(iii) If the Company takes any action, which pursuant to this Certificate of Designation requires the Public Float Hurdle to be met, the Company shall promptly, and in no event later than five (5) days after the date of such action, furnish to each Holder a certificate of an officer of the Company setting forth, to the extent required to be complied with in connection with such action, the Public Market Capitalization as of the date of such action and an analysis of the Public Float Hurdle.

SECTION 9. Additional Definitions. For purposes of these resolutions, the following terms shall have the following meanings:

(a) "Affiliate" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under direct or indirect common control with, such Person.

(b) "Asset Sale" shall have the meaning set forth in the Indenture.

(c) "Beneficial Owner" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular "person" (as that term is used in Section 13(d)(3) of the Exchange Act), such "person" shall be deemed to have beneficial ownership of all securities that such "person" has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition. The terms "Beneficially Owns" and "Beneficially Owned" shall have a corresponding meaning.

(d) "Business Day" means any day except a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or obligated to close.

(e) "Capital Stock" means, with respect to any Person, any and all shares of stock of a corporation, partnership interests or other equivalent interests (however designated, whether voting or non-voting) in such Person's equity, entitling the holder to receive a share of the profits and losses, and a distribution of assets, after liabilities, of such Person.

(f) "Cash Equivalents" means:

(i) United States dollars, or money in other currencies received in the ordinary course of business;

(ii) U.S. Government Obligations or certificates representing an ownership interest in U.S. Government Obligations with maturities not exceeding one year from the date of acquisition;

(iii) (A) demand deposits, (B) time deposits and certificates of deposit with maturities of one year or less from the date of acquisition, (C) banker's acceptances with maturities not exceeding one year from the date of acquisition, and (D) overnight bank deposits, in each case with any bank or trust company organized or licensed under the laws of the United States or any state thereof having capital, surplus and undivided profits in excess of $500 million whose short-term debt is rated "A-2" or higher by S&P or "P-2" or higher by Moody's;

(iv) repurchase obligations with a term of not more than seven (7) days for underlying securities of the type described in clauses (ii) and (iii) above entered into with any financial institution meeting the qualifications specified in clause (iii) above;

(v) commercial paper rated at least P-1 by Moody's or A-1 by S&P and maturing within six (6) months after the date of acquisition; and

(vi) money market funds at least 95% of the assets of which consist of investments of the type described in clauses (i) through (v) above.

(g) "Certificate of Designation" means this certificate of designation for the Series A-2 Preferred Stock, as such shall be amended from time to time.

(h) "Change of Control" shall have the meaning set forth in the Existing Indenture; provided, however, that references to Permitted Holders therein shall be deemed to refer to the Harbinger Affiliates, the Fortress Investor and their respective Affiliates.

(i) "Collateral Coverage Ratio" means, as of any determination date, the "Collateral Coverage Ratio" as set forth in the Indenture, except that (x) all assets of the Company and the Guarantors (as defined in the Indenture) (including Excluded Property (as defined in the Indenture)) shall be considered to be "Collateral" whether or not pledged to secure indebtedness of the Company or its Subsidiaries and (y) clause (ii) of such definition shall be deemed to refer to all "Debt" (as defined in the Indenture), whether or not secured by liens on the "Collateral", and the term "Debt" shall further be deemed to include all outstanding Preferred Shares and all outstanding Parity Securities and Senior Securities (including any shares of Preferred Stock that would be outstanding after taking into account the consummation of the proposed issuance of Preferred Stock). In the event that any version of the Indenture no longer contains a "Collateral Coverage Ratio" (or substantially similar test), then the term "Collateral Coverage Ratio" shall be deemed to refer to the definition of "Collateral Coverage Ratio" (or such substantially similar definition) set forth in the last version of the Indenture containing such ratio; provided, however, that if the Company no longer has any indebtedness outstanding, then any covenants utilizing the Collateral Coverage Ratio shall no longer be in effect (subject to the 365-day reinstatement and related non-circumvention provisions of the last sentence contained in the definition of the term "Indenture" herein).

(j) "Common Stock" means the shares of common stock, par value $0.01 per share, of the Company or any other Capital Stock of the Company into which such Common Stock shall be reclassified or changed.

(k) "Company Conversion Conditions" means the following: (i) the Thirty Day VWAP exceeds 150% of the then applicable Conversion Price (as defined in the Existing Series A Certificate of Designation) of the Existing Series A Preferred Stock; and (ii) the Daily VWAP exceeds 150% of the then applicable Conversion Price (as defined in the Existing Series A Certificate of Designation) of the Existing Series A Preferred Stock for at least twenty (20) Trading Days out of the thirty (30) Trading Days used to calculate the Thirty Day VWAP in clause (i) of this definition.

(l) "control" (including, with correlative meanings, the terms "controlling," "controlled by" and "under common control with") with respect to any Person, 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, by contract or otherwise. For the avoidance of doubt, as of the date hereof (but without precluding a different determination as of any date subsequent to the date hereof dependent on the relevant facts and circumstances at such time), the Company shall not be considered to control Spectrum.

(m) "Conversion Price" means initially $7.00, as adjusted from time to time as provided in SECTION 5.

(n) "Convertible Securities" means securities by their terms convertible into or exchangeable for Common Stock or options, warrants or rights to purchase such convertible or exchangeable securities.

(o) "Daily VWAP" means the volume-weighted average price per share of Common Stock (or per minimum denomination or unit size in the case of any security other than Common Stock) as displayed under the heading "Bloomberg VWAP" on the Bloomberg page for the "<equity> AQR" page corresponding to the "ticker" for such Common Stock or unit (or its equivalent successor if such page is not available) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such Trading Day (or if such volume-weighted average price is unavailable, the market value of one share of such Common Stock (or per minimum denomination or unit size in the case of any security other than Common Stock) on such Trading Day. The "volume weighted average price" shall be determined without regard to after-hours trading or any other trading outside of the regular trading session trading hours.

(p) "Debt" shall have the meaning set forth in the Indenture.

(q) "Dividend Payment Date" means January 15, April 15, July 15 and October 15 of each year, commencing on July 15, 2011; *provided* that, if any such Dividend Payment Date would otherwise occur on a day that is not a Business Day, such Dividend Payment Date shall instead be the immediately succeeding Business Day.

(r) "Dividend Rate" means for any Dividend Period, 8.00% plus the applicable Accreting Dividend Rate for such Dividend Period.

(s) "Equity Securities" means, with respect to any Person: (i) shares of Capital Stock of such Person, (ii) any rights, options, warrants or similar securities to subscribe for, purchase or otherwise acquire any shares of the Capital Stock of such Person, and (iii) Capital Stock or other securities (including debt securities) directly or indirectly convertible into or exercisable or exchangeable for any shares of Capital Stock of such Person.

(t) "Exchange" means the NASDAQ Global Market, the NASDAQ Global Select Market, The New York Stock Exchange or any of their respective successors.

(u) "Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

(v) "Excluded Stock" means: (i) shares of Common Stock issued by the Company in an event subject to, and for which the Conversion Price is subject to adjustment pursuant to, SECTION 5(g)(i)(A); (ii) Option Securities or shares of Common Stock (including upon exercise of Option Securities) issued to any director, officer or employee pursuant to compensation arrangements approved by the Board in good faith and otherwise permitted to be issued, or not prohibited, by any other provision of this Certificate of Designation; (iii) the issuance of shares of Common Stock upon conversion of the Preferred Shares or upon the exercise or conversion of

Option Securities and Convertible Securities of the Company outstanding on the Original Issue Date or otherwise permitted to be issued, or not prohibited, by any other provision of this Certificate of Designation; and (iv) Common Stock that becomes issuable in connection with, or as a result of, accretions to the face amount of, or payments in kind with respect to, Preferred Shares, Option Securities and Convertible Securities of the Company outstanding on the Original Issue Date or otherwise permitted to be issued, or not prohibited, by any other provision of this Certificate of Designation.

(w) "Ex-Date" means the first date on which the Common Stock trades on the applicable exchange or in the applicable market, regular way, without the right to receive the issuance, dividend or distribution in question from the Company or, if applicable, from the seller of the Common Stock on such exchange or market (in the form of due bills or otherwise) as determined by such exchange or market.

(x) "Existing Indenture" means the indenture, dated as of November 15, 2010, by and between the Company and Wells Fargo Bank, National Association, as trustee, governing the Senior Notes, as in effect on the Original Issue Date.

(y) "Fair Market Value" shall have the meaning set forth in the Indenture, *provided* that, the initial Fair Market Value of all Investments of the Company shall be deemed to be the purchase price paid by the Company therefor and the Fair Market Value of Harbinger F&G on May 13, 2011 shall be deemed to be $350.0 million, *provided*, *further*, that for purposes of the calculation of "Net Asset Value," the Fair Market Value of any Investment of the Company shall be valued twice per annum at the end of the same two fiscal quarters as provided in the Indenture (or, if the Indenture shall cease to be in effect or shall provide for valuations at times other than twice per annum, then at the end of the same two fiscal quarters as provided in the then most recent Indenture).

(z) "Fixed Charges" means, without duplication, the sum of (i) cash interest payments on the Senior Notes, (ii) cash interest payments on other indebtedness for borrowed money, (iii) Cash Dividends payable on the Preferred Shares, and (iv) cash dividends payable on Parity Securities and Senior Securities.

(aa) "Fortress Investor" means CF Turul LLC, a Delaware limited liability company, or its successor.

(bb) "Fortress Investor Group" means the Fortress Investor, its Affiliates and its managed funds.

(cc) "Fortress Representatives" shall mean any Investor Director, Additional Preferred Directors, Specified Default Directors, Director Replacement Observer and Fortress Board Observer, in each case as defined in the Existing Series A Certificate of Designation.

(dd) "Front Street Re" means, collectively, FS Holdco Ltd. (Cayman), Front Street Holdings Ltd (Cayman) and Front Street Re Ltd. (Bermuda), and their respective successors.

(ee) "Front Street Specified Affiliate" means FS Holdco Ltd., Front Street Re, Ltd. and any of their respective Subsidiaries and successors and any other Subsidiary of FS Holdco Ltd. formed to conduct a reinsurance business.

(ff) "FS/OM Permitted Activities" means:

(i) any reinsurance transaction entered into by any Front Street Specified Affiliate that is approved by a committee of independent directors of the Company (including without limitation the appointment of a Harbinger Affiliate as investment manager of any assets underlying such transaction, the investment of any such assets in debt or equity securities issued by, or the purchase of assets or investments from, any Harbinger Affiliate, or the formation of any subsidiaries to implement such transaction);

(ii) asset management activity of any Harbinger F&G Affiliate that are (x) conducted on customary market terms, (y) conducted in the ordinary course of business and on terms that are substantially economically similar (in the aggregate) to the terms in effect as of the date of this Agreement with respect to the asset management activities conducted on behalf of Harbinger F&G Affiliates by Goldman Sachs Asset Management and Barrow, Hanley, Mewhinney & Strauss (regardless of whether such asset management activities are conducted by the Company or any of its Subsidiaries (including, any Harbinger F&G Affiliates) or any Harbinger Affiliate), or (z) approved by a committee of independent directors of the Company (including without limitation the appointment of a Harbinger Affiliate as the investment manager for such assets, the investment of any such assets in debt or equity securities issued by, or the purchase of assets or investments from, any Harbinger Affiliate or the formation of any subsidiary to implement such transaction); and

(iii) asset management activity of any other financial services company that is a Subsidiary of the Company (including without limitation the appointment of a Harbinger Affiliate as the investment manager for such assets, the investment of any such assets in debt or equity securities issued by, or the purchase of assets or investments from, any Harbinger Affiliate or the formation of any Subsidiary to implement such transaction) (other than the asset management activities described in clause (ii) above) that are either in the ordinary course of business or approved by a committee of independent directors of the Company; provided, such asset management activities do not include operating as a hedge fund or private equity business (unless such activities are managed by a Subsidiary of the Company and not by any Harbinger Affiliate); provided further, that reinsurance activities shall not, for this purpose, be considered a hedge fund or private equity business operation.

(gg) "Going Private Event" means either: (A) the Company or any Harbinger Affiliate entering into a plan of merger or other agreement or arrangement providing for the acquisition of the Company by any Harbinger Affiliate in a transaction subject to Rule 13e-3 of the Exchange Act or (ii) a Harbinger Affiliate launching a tender offer subject to Rule 13e-3 of the Exchange Act for the outstanding shares of Common Stock not held by the Harbinger Affiliates.

(hh) "Governmental Entity" shall mean any United States or non-United States federal, state or local government, or any agency, bureau, board, commission, department, tribunal or instrumentality thereof or any court, tribunal, or arbitral or judicial body.

(ii) "Harbinger Affiliates" means Philip A. Falcone, Harbinger Capital Partners, or any limited partnership, limited liability company, corporation or other entity that is an Affiliate of Philip A. Falcone or Harbinger Capital Partners (other than the Company and its Subsidiaries).

(jj) "Harbinger Capital Partners" means, collectively, Harbinger Capital Partners LLC and Harbinger Capital Partners II LP.

(kk) "Harbinger F&G" means Harbinger F&G, LLC (formerly known as Harbinger OM, LLC).

(ll) "Harbinger F&G Affiliate" means Harbinger F&G and any of its Subsidiaries and any of their respective successors.

(mm) "hereof"; "herein" and "hereunder" and words of similar import refer to this Certificate of Designation as a whole and not merely to any particular clause, provision, section or subsection.

(nn) "Holders" means the holders of outstanding Preferred Shares, shares of Existing Series A Preferred Stock, and shares of Additional Permitted Preferred Stock as they appear in the records of the Company.

(oo) "HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the regulations promulgated thereunder.

(pp) "Independent Director" means any director on the Board that is "independent" as defined in Section 303A of The New York Stock Exchange Listed Company Manual, other than any director that is employed by a Harbinger Affiliate.

(qq) "Indenture" means the indenture, dated as of November 15, 2010, by and between the Company and Wells Fargo Bank, National Association, as trustee, governing the Senior Notes as amended, supplemented or otherwise modified, and, in the event that the Senior Notes are refinanced or replaced with indebtedness ranking senior to the Series A-2 Preferred Stock, shall be deemed to refer to any agreement governing the terms of such indebtedness (provided, that in the event more than one agreement would constitute an "Indenture", with respect to any provision in this Certificate of Designation incorporating a provision of the "Indenture", the term Indenture shall mean the agreement most favorable to the Holders with respect to such provision). Further, if at any time the Company ceases to be a party to an "Indenture", the terms hereof referring to the provisions of the "Indenture" shall be suspended, except that if the Company enters into an agreement regarding indebtedness ranking senior to the Series A-2 Preferred Stock within 365 days of the termination of the last "Indenture," then the term "Indenture" shall be deemed to refer to such agreement and the provisions hereof that were previously suspended shall once again be effective (*provided*, *however*,

that if the Company directly or indirectly structures any financing activity, or the timing thereof, with the purpose or intent of causing any such suspension with a view towards thereafter entering into a new Indenture, then such suspension shall be deemed not to have taken effect and the Company shall be deemed to have continued to be subject to the provisions of the prior Indenture).

(rr) "Initial Preferred Share Amount" means 205,000 shares of Existing Series A Preferred Stock, as adjusted for any splits, combinations, reclassifications or similar adjustments.

(ss) "Intermediate Holding Company" means any Subsidiary of the Company that has no assets other than Equity Interests in other Subsidiaries of the Company.

(tt) "Insurance Regulatory Authorities" means the Vermont Department of Banking, Insurance, Securities and Health Care Administration, the New York State Insurance Department, the Maryland Insurance Administration, the Bermuda Monetary Authority or any other Governmental Entity regulating an insurance business of the Company or any of its controlled Affiliates.

(uu) "Investment" has the meaning ascribed to such term in the Indenture.

(vv) "Investment Securities" with respect to a Person means debt or equity securities issued by such Person or similar obligations of, or participations in, such Person.

(ww) "Issue Date" means, with respect to a Preferred Share, the date on which such share is first issued by the Company.

(xx) "Lien" means any mortgage, pledge, security interest, encumbrance, lien or charge of any kind (including any conditional sale or other title retention agreement or capital lease).

(yy) "Liquidation Event" means (i) the voluntary or involuntary liquidation, dissolution or winding-up of the Company, (ii) the commencement by the Company of any case under applicable bankruptcy, insolvency or other similar laws now or hereafter in effect, including pursuant to Chapter 11 of the U.S. Bankruptcy Code, (iii) the consent to entry of an order for relief in an involuntary case under applicable bankruptcy, insolvency or other similar laws now or hereafter in effect, including pursuant to Chapter 11 of the U.S. Bankruptcy Code, and (iv) the consent to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee or similar official of the Company, or any general assignment for the benefit of creditors.

(zz) "Majority Holders" means Holders (other than the Company, its employees, its Subsidiaries or Harbinger Affiliates) owning more than 50% of the Regular Liquidation Preference of the issued and outstanding Preferred Shares, shares of Existing Series A Preferred Stock and shares of Additional Permitted Preferred Stock, taken as a whole; *provided* that, for purposes of such calculation, the Preferred Shares, shares of Existing Series A Preferred Stock and shares of Additional Permitted Preferred Stock held by the Company, its employees, its Subsidiaries or any Harbinger Affiliate shall be treated as not outstanding.

(aaa) "Market Disruption Event" means the occurrence or existence for more than one half hour period in the aggregate on any scheduled Trading Day for the Common Stock (or Reference Property, to the extent applicable) of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the applicable Exchange or otherwise) in the Common Stock (or Reference Property, to the extent applicable) or in any options, contracts or future contracts relating to the Common Stock (or Reference Property, to the extent applicable), and such suspension or limitation occurs or exists at any time before 4:00 p.m. (New York City time) on such day.

(bbb) "Market Value" on any date means the closing sale price per share (or if no closing sale price is reported, the average of the closing bid and ask prices or, if more than one in either case, the average of the average closing bid and the average closing ask prices) on such date as reported on the principal Exchange on which shares of the Common Stock are then listed. If the Common Stock is not so listed or traded, the Market Value will be an amount reasonably determined by the Board in good faith to be the fair value of the Common Stock.

(ccc) "May 13 NAV" means $893,520,931.

(ddd) "Net Asset Value" means the amount, valued twice per annum at the end of the same two fiscal quarters as provided in the Indenture, equal to (A) the sum of (1) the Cash Equivalents of the Company plus (2) the Fair Market Value of the Company's Investments (other than Cash Equivalents), less (B) all liabilities of the Company determined in accordance with GAAP, including those related to the Company's Investments to the extent not taken into account in the calculation of the Fair Market Value of the Company's Investments; provided that for purposes hereof, (i) the derivative attributable to the conversion feature in any series of Preferred Stock will not be considered a liability of the Company, (ii) the face amount of any Series A-2 Preferred Stock and any Parity Securities (as well as any cash dividends accrued thereon) will be considered a liability of the Company, (iii) the amount of the fees and expenses paid by the Company on behalf of itself or any third party in connection with the issuance of the first $400 million aggregate purchase price of Existing Series A Preferred Stock, Series A-2 Preferred Stock and Additional Preferred Securities will be included in the calculation of the Company's Cash Equivalents, in each case upon the first calculation of Net Asset Value following payment of such fees or expenses, (iv) the face amount of Preferred Stock that constitutes Senior Securities and dividends accrued thereon will be considered a liability of the Company and (v) the face amount of Preferred Stock that is a Junior Security and dividends accrued thereon will not be considered a liability of the Company; provided, further, that at the option of the Company, Net Asset Value may be recalculated as of December 31, 2011 solely for purposes of the Dividend Period(s) beginning on and after January 1, 2012.

(eee) "Option Securities means options, warrants or other rights to purchase or acquire Common Stock, as well as stock appreciation rights, phantom stock units and similar rights whose value is derived from the value of the Common Stock.

(fff) "Original Issue Date" means Closing Date (as such term is defined in the Securities Purchase Agreement).

(ggg) "Person" means any individual, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, trust, unincorporated organization, government, any agency or political subdivisions thereof or other "Person" as contemplated by Section 13(d) of the Exchange Act.

(hhh) "Portfolio Company" means, with respect to a referent Person, any other Person that issues Investment Securities if (i) such Investment Securities are the subject of an investment by the referent Person, (ii) at least 10% of the class of Investment Securities are Beneficially Owned by the referent Person and (iii) such Investment Securities are not (A) cash or cash equivalents, (B) marketable direct obligations issued or unconditionally guaranteed by the government of any OECD country, or issued by any agency thereof, maturing within one year from the date of acquisition thereof, (C) money market instruments, commercial paper or other short-term debt obligations having at the date of purchase by such Person the highest or second highest rating obtainable from either Standard & Poor's Ratings Services or Moody's Investors Services, Inc., or their respective successors, (D) interest bearing accounts at a registered broker-dealer, (E) money market mutual funds, (F) certificates of deposit or similar financial instruments maturing within one year from the date of acquisition thereof issued by commercial banks incorporated under the laws of the United States, any state thereof, the District of Columbia, any other OECD country or political subdivision thereof, each having at the date of acquisition by the Partnership combined capital and surplus of not less than $100 million, or (G) overnight repurchase agreements with primary U.S. Federal Reserve Bank dealers collateralized by direct U.S. Government obligations or similar arrangements with the central banks of OECD countries.

(iii) "Preferred Shares" means the shares of Series A-2 Preferred Stock.

(jjj) "Pro Forma Collateral Coverage Ratio" means, with respect to a potential issuance of shares of Additional Preferred Securities, the Collateral Coverage Ratio calculated to give pro forma effect to the issuance of such Additional Preferred Securities.

(kkk) "Public Float Hurdle" means, as of any relevant measurement date, that the Public Market Capitalization is greater than the aggregate Market Value of the shares of Common Stock into which all issued and outstanding shares of Existing Series A Preferred Stock may be converted.

(lll) "Public Market Capitalization" means, as of any relevant measurement date, the aggregate Market Value of all issued and outstanding shares of Common Stock, other than shares of Common Stock held by Harbinger Affiliates.

(mmm) "Purchase Price" means $1,000 per share, as the same may be increased pursuant to SECTION 2; *provided* that, in connection with a Going Private Event, the Purchase Price shall be adjusted to be an amount equal to the greater of (i) an amount equal to the Regular Liquidation Preference (disregarding for the purposes of calculating the Regular Liquidation Preference the last sentence of this definition) or (ii) the value of the consideration to be received per share of Common Stock in such Going Private Event (reasonably determined in good faith by the Board). Notwithstanding the foregoing, for purposes of determining Cash Dividends payable

pursuant to SECTION 2(a) and the Liquidation Preference payable upon a Liquidation Event pursuant to SECTION 3, no adjustment to the Purchase Price pursuant to the first proviso of the preceding sentence shall be taken into account.

(nnn) "Redemption Date" means the Maturity Date, any Optional Redemption Date or any Change of Control Payment Date, as applicable.

(ooo) "Redemption Price" means with respect to each Preferred Share: (i) in connection with a redemption pursuant to SECTION 6(a), the Purchase Price plus all accrued and unpaid Dividends (to the extent not included in the Purchase Price, including, without limitation, accrued and unpaid Cash Dividends and accrued and unpaid Accreting Dividends for the then current Dividend Period), if any, on each Preferred Share to be redeemed, (ii) in connection with a redemption pursuant to SECTION 6(b), 150% of the sum of the Purchase Price plus all accrued and unpaid Dividends (to the extent not included in the Purchase Price, including, without limitation, accrued and unpaid Cash Dividends and accrued and unpaid Accreting Dividends for the then current Dividend Period), if any, on each Preferred Share to be redeemed, or (iii) in connection with a Change of Control, the Change of Control Payment.

(ppp) "Restricted Payment" means any dividend, distribution or other payment in respect of the Common Stock or any Junior Securities, (other than, in the case of Junior Securities, regularly scheduled dividend payments) or the repurchase, redemption or other acquisition of any shares of Common Stock or any Junior Securities.

(qqq) "Securities Purchase Agreement" means that certain securities purchase agreement, dated August 1, 2011, among the Company, Quantum Partners LP, a Cayman Islands exempted limited partnership, JHL Capital Group Master Fund L.P., a Cayman Islands exempted limited partnership, DDJ High Yield Fund, an entity organized under the laws of the Province of Ontario, Canada, General Motors Hourly-Rate Employes Pension Trust – 7N1H, a trust maintained by General Motors Corporation, a Delaware corporation, General Motors Salaried Employes Pension Trust – 7N1I, a trust maintained by General Motors Corporation, Stichting Pensioenfonds Hoogovens, a Dutch pension plan regulated by the Dutch Central Bank, Caterpillar Inc. Master Retirement Trust, a trust maintained by Caterpillar, Inc., a Delaware corporation, J.C. Penney Corporation, Inc. Pension Plan Trust, a trust maintained by J.C. Penney Corporation, Inc., a Delaware corporation, Stichting Bewaarder Interpolis Pensioenen Global High Yield Pool, a Dutch tax transparent pool of assets, Stichting Pensioenfonds voor Fysiotherapeuten, a Dutch pension plan regulated by the Dutch Central Bank, Houston Municipal Employees Pension System, a pension plan organized pursuant to Texas government code, UAW Retiree Medical Benefits Trust, a trust consisting of three separate employees' beneficiary associations, DDJ Distressed and Special Situations Fund, L.P., a Delaware limited partnership, Russell Investment Company - Russell Global Opportunistic Credit Fund, a Massachusetts business trust, and DDJ Capital Management Group Trust - High Yield Investment Fund, a trust maintained by The Bank of New York Mellon, a New York State chartered bank, as trustee.

(rrr) "Senior Notes" means the 10.625% Senior Secured Notes Due November 15, 2015 issued under the Indenture.

(sss) "Series A-2 Majority Holders" means holders of Preferred Shares (other than the Company, its employees, its Subsidiaries or Harbinger Affiliates) owning more than 50% of the Regular Liquidation Preference of the issued and outstanding Preferred Shares; *provided* that, for purposes of such calculation, the Preferred Shares held by the Company, its employees, its Subsidiaries or any Harbinger Affiliate shall be treated as not outstanding.

(ttt) "Significant Subsidiary" means any Subsidiary, or group of Subsidiaries, that would, taken together, be a "significant subsidiary" as defined in Article 1, Rule 1-02 (w)(1) or (2) of Regulation S-X promulgated under the Securities Act of 1933, as amended, as such regulation is in effect on the Original Issue Date.

(uuu) "Specified Sections" means SECTION 1(b), SECTION 2, SECTION 3, SECTION 4(a), SECTION 4(b), SECTION 4(e), SECTION 5, SECTION 6, SECTION 8(d), SECTION 10(a), SECTION 10(b), SECTION 10(c), SECTION 10(d), SECTION 10(f) or the definitions of Majority Holders or Series A-2 Majority Holders.

(vvv) "Spectrum" means Spectrum Brands Holdings, Inc., a Delaware corporation.

(www) "Subsidiary" means with respect to any Person, any corporation, association or other business entity of which more than 50% of the outstanding Voting Stock is owned, directly or indirectly, by, or of which more than 50% of the economic value accrues to, or, in the case of a partnership, the sole general partner or the managing partner or the only general partners of which are, such Person and one or more Subsidiaries of such Person (or a combination thereof). Unless otherwise specified, "Subsidiary" means a Subsidiary of the Company.

(xxx) "Subsidiary Guarantor" means any entity that is a "Guarantor" pursuant to the Indenture.

(yyy) "Thirty Day VWAP" means, with respect to a security, the average of the Daily VWAP of such security for each day during a thirty (30) consecutive Trading Day period ending immediately prior to the date of determination. Unless otherwise specified, "Thirty Day VWAP" means the Thirty Day VWAP of the Common Stock.

(zzz) "Total Secured Debt" means, with respect to any Person, all outstanding Debt of such Person that is secured by Liens on the assets of such Person.

(aaaa) "Total Current Voting Power" shall mean, with respect to any entity, at the time of determination of Total Current Voting Power, the total number of votes which may be cast in the general election of directors of such entity (or, in the event the entity is not a corporation, the governing members, board or other similar body of such entity).

(bbbb) "Trading Day" means any day on which (i) there is no Market Disruption Event and (ii) The New York Stock Exchange or, if the Common Stock (or Reference Property, to the extent applicable) is not listed on The New York Stock Exchange, the principal national securities exchange on which the Common Stock (or Reference Property, to the extent applicable) is

listed and is open for trading or, if the Common Stock (or Reference Property, to the extent applicable) is not so listed, admitted for trading or quoted, any Business Day. A Trading Day only includes those days that have a scheduled closing time of 4:00 p.m. (New York City time) or the then standard closing time for regular trading on the relevant exchange or trading system.

(cccc) "Transaction Agreements" shall have the meaning ascribed to such term in the Securities Purchase Agreement.

(dddd) "U.S. Government Obligations" means obligations issued or directly and fully guaranteed or insured by the United States of America or by any agent or instrumentality thereof, *provided* that the full faith and credit of the United States of America is pledged in support thereof.

(eeee) "Voting Stock" means, with respect to any Person, Capital Stock of any class or kind ordinarily having the power to vote for the election of directors, managers or other voting members of the governing body of such Person.

(ffff) Each of the following terms is defined in the SECTION set forth opposite such term:

Term	**Section**
Accreting Dividend	2(b)
Accreting Dividend Rate	2(b)
Additional Preferred Securities	8(b)(ii)
Additional Permitted Preferred Stock	8(b)
Basic Accreting Dividend	2(b)
Board	Preamble
Breach Period	7(c)
Cash Accretion Dividends	2(a)
Cash Dividends	2(a)
Cash Maintenance Ratio	8(a)
Certificate of Incorporation	Recitals
Change of Control Offer	6(c)(ii)
Change of Control Payment	6(c)(i)
Change of Control Payment Date	6(c)(ii)
Common Dividend	2(c)
Company	Preamble
Conversion Amount	5(d)(i)
Conversion Date	5(a)
DGCL	Preamble
Dividend Period	2(g)
Dividend Record Date	2(f)
Dividends	2(b)
Election Notice	6(a)
Existing Purchasers	Recitals

Term	Section
Existing Series A Certificate of Designation	Recitals
Existing Series A Preferred Stock	Recitals
Forced Conversion Trigger Date	5(b)
Fortress Director Representation Amount	7(e)
Holder Redemption Notice Period	6(a)
Incurrence Based Issuance Limits	8(b)
In-Kind Accretion Dividends	2(d)
In-Kind Common Dividend	2(d)
In-Kind Participating Dividend	2(d)
Junior Securities	1(b)(i)
Liquidation Preference	3(a)
Maturity Date	6(a)
Optional Redemption Date	6(b)
Parity Securities	1(b)(ii)
Participating Accretion Dividends	2(c)
Participating Cash Dividend	2(c)
Participating Dividends	2(d)
Participating Liquidation Preference	3(a)
Preferred Stock	Recitals
Proportionate Representation Amount	8(e)
Reference Property	5(g)(v)
Regular Liquidation Preference	3(a)
Regulated Shares	5
Senior Securities	1(b)(iii)
Series A-2 Preferred Stock	1(a)
Specified Breach Director	7(c)
Transaction	5(g)(v)
Trigger Event	5(g)(ii)

SECTION 10. Miscellaneous. For purposes of this Certificate of Designation, the following provisions shall apply:

(a) Share Certificates. If any certificates representing Preferred Shares shall be mutilated, lost, stolen or destroyed, the Company shall issue, in exchange and in substitution for and upon cancellation of the mutilated certificate, or in lieu of and substitution for the lost, stolen or destroyed certificate, a new Preferred Share certificate of like tenor and representing an equivalent number of Preferred Shares, but only upon receipt of evidence of such loss, theft or destruction of such certificate and indemnity by the holder thereof, if requested, reasonably satisfactory to the Company.

(b) Status of Cancelled Shares. Preferred Shares which have been converted, redeemed, repurchased or otherwise cancelled shall be retired and, following the filing of any certificate required by the DGCL, have the status of authorized and unissued shares of Preferred Stock, without designation as to series, until such shares are once more designated by the Board as part of a particular series of Preferred Stock of the Company.

(c) Severability. If any right, preference or limitation of the Series A-2 Preferred Stock set forth in this Certificate of Designation is invalid, unlawful or incapable of being enforced by reason of any rule of law or public policy, all other rights, preferences and limitations set forth in this Certificate of Designation which can be given effect without the invalid, unlawful or unenforceable right, preference or limitation shall, nevertheless, remain in full force and effect, and no right, preference or limitation herein set forth shall be deemed dependent upon any other such right, preference or limitation unless so expressed herein.

(d) Remedies.

(i) Except with respect to the Specified Breach Events specified in SECTIONS 7(a)(v) and 7(a)(vi), the remedies set forth in SECTIONS 7(b), 7(c) and 7(d) shall be the sole remedies available to any Person upon the occurrence of a Specified Breach Event. In addition to the remedies provided for in SECTIONS 7(b), 7(c) and 7(d), the Holders shall retain all rights and remedies available to them at law or in equity as provided in SECTION 10(d)(ii) below in connection with any Specified Breach Event specified in SECTIONS 7(a)(v) and 7(a)(vi). With respect to a Specified Breach in SECTION 7(a)(iii), for the avoidance of doubt, Holders retain all rights and remedies available at law or in equity as provided in SECTION 10(d)(ii) for any failure to pay any Dividends when and to the extent required in connection with the conversion of any Preferred Shares, in connection with a redemption of Preferred Shares on the Maturity Date, on an Optional Redemption Date or in connection with a Change of Control, upon any Liquidation Event or otherwise in connection with the redemption, repayment, repurchase, retirement, conversion or maturity of Preferred Shares, and such events do not constitute a Specified Breach within the meaning of SECTION 7(a)(iii)).

(ii) The Company acknowledges that the obligations imposed on it in this Certificate of Designation are special, unique and of an extraordinary character, and irreparable damages, for which money damages, even if available, would be an inadequate remedy, would occur

in the event that the Company does not perform the provisions of this Agreement in accordance with its specified terms or otherwise breaches such provisions. Except as specifically provided in SECTION 10(d)(i), the Holders shall be entitled to seek an injunction, specific performance and other equitable relief to prevent breaches of this Certificate of Designation and to seek to enforce specifically the terms and provisions hereof, this being in addition to any other remedy to which they are entitled, at law or in equity, including without limitation money damages.

(e) Renunciation under DGCL Section 122(17). Pursuant to Section 122(17) of the Delaware General Corporation Law, the Company renounces any interest or expectancy of the Company in, or being offered an opportunity to participate in, business opportunities that are presented to one or more of the Specified Breach Directors other than any business opportunities that are presented to any such Specified Breach Director solely in their capacity as a director of the Company.

(f) Headings. The headings of the various subdivisions hereof are for convenience of reference only and shall not affect the interpretation of any of the provisions hereof.

(g) Notices. All notices or communications in respect of Preferred Stock shall be in writing and shall be deemed delivered (a) three (3) Business Days after being sent by registered or certified mail, return receipt requested, postage prepaid, (b) one (1) Business Day after being sent via a reputable nationwide overnight courier service guaranteeing next business day delivery, (c) on the date of delivery if delivered personally, or (d) if by facsimile, upon written confirmation of receipt by facsimile. Notwithstanding the foregoing, if Preferred Stock is issued in book-entry form through The Depository Trust Company or any similar facility, such notices may be given to the beneficial holders of Preferred Stock in any manner permitted by such facility.

(h) Other Rights. The shares of Preferred Stock shall not have any rights, preferences, privileges or voting powers or relative, participating, optional or other special rights, or qualifications, limitations or restrictions thereof, other than as set forth herein or in the Certificate of Incorporation or as provided by applicable law and regulation.

[Rest of page intentionally left blank.]

IN WITNESS WHEREOF, the Company has caused this Certificate of Designation to be executed by a duly authorized officer of the Company as of _____, 2011.

HARBINGER GROUP INC.

By: _____
Name:
Title:

[SIGNATURE PAGE TO CERTIFICATE OF DESIGNATION]

CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF DESIGNATION
OF SERIES A PARTICIPATING CONVERTIBLE PREFERRED STOCK
OF
HARBINGER GROUP INC.

The undersigned, Francis T. McCarron, Executive Vice President of Harbinger Group Inc., a corporation organized and existing under the General Corporation Law of the State of Delaware (the "DGCL"), DOES HEREBY CERTIFY:

FIRST. That resolutions of the Board of Directors of Harbinger Group Inc. have been duly adopted, setting forth a proposed amendment of the Certificate of Designation of Series A Participating Convertible Preferred Stock of Harbinger Group Inc. (the "Series A Certificate of Designation"), declaring said amendment to be advisable and calling for a submission of said amendment to the stockholders for consideration thereof. The resolutions setting forth the proposed amendment are as follows:

RESOLVED, that SECTION 4(b) of the Series A Certificate of Designation is hereby amended and restated in its entirety as follows:

(b) In addition to the voting rights provided for by SECTION 4(a) and any voting rights to which the Holders may be entitled to under law:

(i) for so long as any Preferred Shares, shares of Series A-2 Preferred Stock, or shares of Additional Permitted Preferred Stock are outstanding, the Company may not, directly or indirectly, take any of the following actions (including by means of merger, consolidation, reorganization, recapitalization or otherwise) without the prior written consent of the Majority Holders:

(A) amend the Certificate of Incorporation (excluding for this purpose this Certificate of Designation) or the By-Laws of the Company (including by means of merger, consolidation, reorganization, recapitalization or otherwise), in each case, in a manner adverse to the Holders;

(B) create or issue any (x) Senior Securities or (y) except as permitted under SECTION 9(b) and otherwise by this Certificate of Designation, Parity Securities or Additional Permitted Preferred Stock;

(C) incur, or permit any Subsidiary Guarantor to incur, any Debt (excluding any Debt incurred to refinance the Senior Notes) not otherwise permitted by the terms of the Indenture;

(D) make, or permit any Subsidiary Guarantor to make, any Asset Sales not otherwise permitted by the terms of the Indenture;

(E) make, or to the extent within the Company's control, permit any of its Subsidiaries to make, any Restricted Payments not otherwise permitted by the terms of the Indenture;

(F) create a new Subsidiary of the Company not in existence on the Original Issue Date for the primary purpose of issuing Equity Securities of such Subsidiary or incurring Debt the proceeds of which will, directly or indirectly, be used to make dividends or other distributions or payments of cash to holders of the Company's Capital Stock other than the Holders; provided, that for the avoidance of doubt, the foregoing shall not prohibit dividends or other distributions to the Company; or

(G) agree to do, directly or indirectly, any of the foregoing actions set forth in clauses (A) through (F), unless such agreement expressly provides that the Company's obligation to undertake any of the foregoing is subject to the prior approval of the Majority Holders; and

(ii) for so long as the Fortress Investor Group owns Preferred Shares equal to or greater than 50% of the Initial Preferred Share Amount, neither the Company nor, to the extent within the Company's control, any of its Subsidiaries may, directly or indirectly, take any of the following actions (including by means of merger, consolidation, reorganization, recapitalization or otherwise) without the prior written consent of the Fortress Investor:

(A) create or issue any (x) Senior Securities or (y) except as permitted under SECTION 9(b) and otherwise by this Certificate of Designation, Parity Securities or Additional Permitted Preferred Stock;

(B) incur, or permit any Subsidiary Guarantor to incur, any Debt (excluding any Debt incurred to refinance the Senior Notes) not otherwise permitted by the terms of the Indenture;

(C) make, or permit any Subsidiary Guarantor to make, any Asset Sales not otherwise permitted by the terms of the Indenture;

(D) make, or to the extent within the Company's control, permit any of its Subsidiaries to make, any Restricted Payments not otherwise permitted by the terms of the Indenture;

(E) acquire or, to the extent within the Company's control, permit any Subsidiary of the Company to acquire, any limited partnership interest, general partnership interest, Equity Securities, Debt or other instrument issued by a Harbinger Affiliate that is a private collective investment vehicle;

(F) create a new Subsidiary of the Company not in existence on the Original Issue Date for the primary purpose of issuing Equity Securities or incurring Debt the proceeds of which will, directly or indirectly, be

used to make dividends or other distributions or payments of cash to holders of the Company's Capital Stock other than the Holders; provided, that for the avoidance of doubt, the foregoing shall not prohibit dividends or other distributions to the Company;

(G) effect any stock split or combination, reclassification or similar event with respect to the Series A Preferred Stock; or

(H) agree to do, directly or indirectly, any of the foregoing actions set forth in clauses (A) through (G), unless such agreement expressly provides that the Company's obligation to undertake any of the foregoing is subject to the prior approval of the Fortress Investor for so long as the Fortress Investor Group owns a number of Preferred Shares equal to or greater than 50% of the Initial Preferred Share Amount; and

(iii) for so long as the Fortress Investor Group owns Preferred Shares equal to or greater than 50% of the Initial Preferred Share Amount (whether held in the form of Preferred Shares or Common Stock issued to the Fortress Investor Group upon the conversion of Preferred Shares), neither the Company nor, to the extent within the Company's control, any of its Subsidiaries may, directly or indirectly, take any of the following actions (including by means of merger, consolidation, reorganization, recapitalization or otherwise) without the prior written consent of the Fortress Investor:

(A) enter into any Related Party Transaction not otherwise permitted pursuant to the Existing Indenture (including, for the avoidance of doubt, any Specified Related Party Transaction or any Related Party Transaction excluded from the definition of Specified Related Party Transaction, in each case to the extent any such transaction is not permitted by the Existing Indenture); provided, that once the Market Capitalization/Liquidity Threshold is satisfied, the dollar thresholds in Sections 4.13(a) and 4.13(b) of the Existing Indenture will be deemed for purposes of this SECTION 4(b)(iii)(A) to increase to any higher thresholds as set forth in the Indenture, as in effect from time to time;

(B) enter into any Specified Related Party Transaction unless (x) such Specified Related Party Transaction shall have been approved by a majority of the members of the Board who are disinterested in the subject matter of such Specified Related Party Transaction (or, in the case of contingent bonuses to officers, directors or employees, such contingent bonuses shall have been approved by a committee of the Board comprised of independent directors) and (y) with respect to a Specified Related Party Transaction having a value of $15,000,000 or more and which is an Extraordinary Transaction for which a fairness opinion is customarily given by nationally recognized investment banking firms, a fairness opinion from a nationally recognized investment banking firm has been obtained; or

(C) agree to do any of the foregoing actions set forth in clauses (A) and (B), unless such agreement expressly provides that the Company's

obligation to undertake any of the foregoing is subject to the prior approval of the Fortress Investor for so long as the Fortress Investor Group owns a number of Preferred Shares equal to or greater than 50% of the Initial Preferred Share Amount (whether held in the form of Preferred Shares or Common Stock issued to the Fortress Investor Group upon the conversion of Preferred Shares); and

(iv) for so long as any Preferred Shares, shares of Series A-2 Preferred Stock, or shares of Additional Permitted Preferred Stock are outstanding, neither the Company nor, to the extent within the Company's control, any of its Subsidiaries may, directly or indirectly, take any of the following actions (including by means of merger, consolidation, reorganization, recapitalization or otherwise) without the prior written consent of each of the Holders:

(A) make any repurchase, redemption or other acquisition for value of Preferred Shares, shares of Series A-2 Preferred Stock or shares of Additional Permitted Preferred Stock, unless such redemption is made on the same terms and on a pro rata basis among all Holders (other than Holders that are granted an equal opportunity to participate in such transaction but elect not to do so); or

(B) agree to do, directly or indirectly, any of the foregoing actions set forth in clause (A), unless such agreement expressly provides that the Company's obligation to undertake any of the foregoing is subject to the prior approval of each of the Holders; and

(v) for so long as any Preferred Shares are outstanding, the Company may not, directly or indirectly, take any of the following actions (including by means of merger, consolidation, reorganization, recapitalization or otherwise) without the prior written consent of the Series A Majority Holders:

(A) amend, repeal, alter or add, delete or otherwise change the powers, preferences, rights or privileges of the Series A Preferred Stock;

(B) effect any stock split or combination, reclassification or similar event with respect to the Series A Preferred Stock; or

(C) agree to do, directly or indirectly, any of the foregoing actions set forth in clauses (A) and (B), unless such agreement expressly provides that the Company's obligation to undertake any of the foregoing is subject to the prior approval of the Series A Majority Holders; and

(vi) for so long as any Preferred Shares are outstanding, neither the Company nor, to the extent within the Company's control, any of its Subsidiaries may, directly or indirectly, take any of the following actions (including by means of merger, consolidation, reorganization, recapitalization or otherwise) without the prior written consent of each of the holders of Preferred Shares:

(A) amend, repeal, alter or add, delete or otherwise change the powers, preferences, rights or privileges of the Series A Preferred Stock set forth in the Specified Sections (including by means of merger, consolidation, reorganization, recapitalization or otherwise) in a manner adverse to the holders of Preferred Shares (whether by means of an amendment or other change to the Specified Sections or by means of an amendment or other change to any definitions used in the Specified Sections or any other terms of this Certificate of Designation affecting the Specified Sections); or

(B) agree to do, directly or indirectly, any of the foregoing actions set forth in clause (A), unless such agreement expressly provides that the Company's obligation to undertake any of the foregoing is subject to the prior approval of each of the holders of Preferred Shares.

RESOLVED, that the second sentence of SECTION 5(b) of the Series A Certificate of Designation is deleted in its entirety and replaced with the following: The Company may exercise its option under this SECTION 5(b) by providing the Holders with a notice, which notice shall specify that the Company is exercising the option contemplated by this SECTION 5(b), the Forced Conversion Trigger Date and the Conversion Date on which the conversion shall occur (which Conversion Date shall be not less than four (4) Business Days following the date such notice is provided to the Holders); *provided* that, once delivered, such notice shall be irrevocable, unless the Company obtains the written consent of (x) the Series A Majority Holders and (y) for so long as the Fortress Investor Group owns a number of Preferred Shares equal to or greater than 50% of the Initial Preferred Share Amount, the Fortress Investor.

RESOLVED, that the second sentence of SECTION 5(g)(v) of the Series A Certificate of Designation is deleted in its entirety and replaced with the following: In the event that holders of Common Stock have the opportunity to elect the form of consideration to be received in the Transaction, the Company shall make adequate provision whereby the Holders shall have a reasonable opportunity to determine the form of consideration into which all of the Preferred Shares, shares of Series A-2 Preferred Stock and shares of Additional Permitted Preferred Stock, treated as a single class, shall be convertible from and after the effective date of the Transaction.

RESOLVED, that references made in SECTION 11(d)(i) of the Series A Certificate of Designation to "Section 11(e)(ii)" shall be replaced with references to "Section 11(d)(ii)".

RESOLVED, that references made in SECTION 11(d)(ii) of the Series A Certificate of Designation to "Section 11(e)(i)" shall be replaced with references to "Section 11(d)(i)".

RESOLVED, that SECTION 10(i) of the Series A Certificate of Designation is deleted in its entirety and replaced with the following: "Change of Control" shall have the meaning set forth in the Existing Indenture; provided,

however, that references to Permitted Holders therein shall be deemed to refer to the Harbinger Affiliates, the Fortress Investor and their respective Affiliates.

RESOLVED, that SECTION 10(rr) of the Series A Certificate of Designation is deleted in its entirety and replaced with the following: "Holders" means the holders of outstanding Preferred Shares, shares of Series A-2 Preferred Stock, and shares of Additional Permitted Preferred Stock as they appear in the records of the Company.

RESOLVED, that SECTION 10(fff) of the Series A Certificate of Designation is deleted in its entirety and replaced with the following: "Majority Holders" means Holders (other than the Company, its employees, its Subsidiaries or Harbinger Affiliates) owning more than 50% of the Regular Liquidation Preference of the issued and outstanding Preferred Shares, shares of Series A-2 Preferred Stock and shares of Additional Permitted Preferred Stock, taken as a whole; *provided* that, for purposes of such calculation, the Preferred Shares, shares of Series A-2 Preferred Stock and shares of Additional Permitted Preferred Stock held by the Company, its employees, its Subsidiaries or any Harbinger Affiliate shall be treated as not outstanding.

RESOLVED, that SECTION 10(qqq) of the Series A Certificate of Designation is deleted in its entirety and replaced with the following: "Preferred Shares" means the shares of Series A Preferred Stock, but shall exclude, for the avoidance of doubt, shares of Series A-2 Preferred Stock.

RESOLVED, that SECTION 10(eeee) of the Series A Certificate of Designation is deleted in its entirety and replaced with the following: "Specified Sections" means SECTION 1(b), SECTION 2, SECTION 3, SECTION 4(a), SECTION 4(b)(i), SECTION 4(b)(iv), SECTION 4(b)(v), SECTION 4(b)(vi), SECTION 4(e), SECTION 5, SECTION 6, SECTION 9(e), SECTION 11(a), SECTION 11(b), SECTION 11(c), SECTION11(d), SECTION 11(f) or the definitions of Majority Holders or Series A Majority Holders.

RESOLVED, that SECTION 10 of the Series A Certificate of Designation is hereby amended to add the following additional defined terms:

(ssss) "Series A-2 Preferred Stock" means the Series A-2 Participating Convertible Preferred Stock of the Company, par value $0.01 per share.

(tttt) "Series A Majority Holders" means holders of Preferred Shares (other than the Company, its employees, its Subsidiaries or Harbinger Affiliates) owning more than 50% of the Regular Liquidation Preference of the issued and outstanding Preferred Shares; *provided* that, for purposes of such calculation, the Preferred Shares held by the Company, its employees, its Subsidiaries or any Harbinger Affiliate shall be treated as not outstanding.

SECOND. In lieu of a meeting and vote of the stockholders of Harbinger Group Inc., the stockholders have consented in writing to said amendment in accordance with the provisions of Section 228 of the DGCL.

THIRD. The aforesaid amendment was duly adopted in accordance with the applicable provisions of Sections 242 and 228 of the DGCL.

IN WITNESS WHEREOF, said Harbinger Group Inc. has caused this Certificate of Amendment to be executed by a duly authorized officer of Harbinger Group Inc. as of _____, 2011.

HARBINGER GROUP INC.

By: _____
Name:
Title:

SECURITIES PURCHASE AGREEMENT

by and among

HARBINGER GROUP INC.,

QUANTUM PARTNERS LP,

DDJ HIGH YIELD FUND,

GENERAL MOTORS HOURLY-RATE EMPLOYES PENSION TRUST – 7N1H,

GENERAL MOTORS SALARIED EMPLOYES PENSION TRUST – 7N1I,

STICHTING PENSIOENFONDS HOOGOVENS,

CATERPILLAR INC. MASTER RETIREMENT TRUST,

J.C. PENNEY CORPORATION, INC. PENSION PLAN TRUST,

STICHTING BEWAARDER INTERPOLIS PENSIOENEN GLOBAL HIGH YIELD POOL,

STICHTING PENSIOENFONDS VOOR FYSIOTHERAPEUTEN,

HOUSTON MUNICIPAL EMPLOYEES PENSION SYSTEM,

UAW RETIREE MEDICAL BENEFITS TRUST,

DDJ DISTRESSED AND SPECIAL SITUATIONS FUND, L.P.,

RUSSELL INVESTMENT COMPANY - RUSSELL GLOBAL OPPORTUNISTIC CREDIT FUND,

DDJ CAPITAL MANAGEMENT GROUP TRUST - HIGH YIELD INVESTMENT FUND,

and

JHL CAPITAL GROUP MASTER FUND L.P.

August 1, 2011

This Securities Purchase Agreement contains a number of representations and warranties which the Company and the Purchasers have made to each other. The assertions embodied in those representations and warranties are qualified by information in a confidential disclosure letter that the Company and the Purchasers have exchanged in connection with signing the Securities Purchase Agreement. The disclosure letter contains information that has been included in the general prior public disclosures of the Company, as well as additional non-public information. While we do not believe that this non-public information is required to be publicly disclosed by the Company under the applicable securities laws, that information does modify, qualify and create exceptions to the representations and warranties set forth in the Securities Purchase Agreement. In addition, these representations and warranties were made as of the date of the Securities Purchase Agreement. Information concerning the subject matter of the representations and warranties may have changed since the date of the Securities Purchase Agreement, which subsequent information may or may not be fully reflected in the public disclosures of the Company. Moreover, representations and warranties are frequently utilized in Securities Purchase Agreements as a means of allocating risks, both known and unknown, rather than to make affirmative factual claims or statements. Accordingly, ONLY THE PARTIES TO THIS AGREEMENT SHOULD RELY ON THE REPRESENTATIONS AND WARRANTIES AS CURRENT CHARACTERIZATIONS OF FACTUAL INFORMATION ABOUT THE COMPANY OR THE PURCHASERS.

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SECURITIES PURCHASE AGREEMENT

SECURITIES PURCHASE AGREEMENT (this "**Agreement**"), dated August 1, 2011, by and among Harbinger Group Inc., Delaware corporation (the "**Company**"), Quantum Partners LP, a Cayman Islands exempted limited partnership (the "**Soros Purchaser**"), JHL Capital Group Master Fund L.P., a Cayman Islands exempted limited partnership (the "**JHL Purchaser**"), DDJ High Yield Fund, an entity organized under the laws of the Province of Ontario, Canada, General Motors Hourly-Rate Employes Pension Trust – 7N1H, a trust maintained by General Motors Corporation, a Delaware corporation, General Motors Salaried Employes Pension Trust – 7N1I, a trust maintained by General Motors Corporation, Stichting Pensioenfonds Hoogovens, a Dutch pension plan regulated by the Dutch Central Bank, Caterpillar Inc. Master Retirement Trust, a trust maintained by Caterpillar, Inc., a Delaware corporation, J.C. Penney Corporation, Inc. Pension Plan Trust, a trust maintained by J.C. Penney Corporation, Inc., a Delaware corporation, Stichting Bewaarder Interpolis Pensioenen Global High Yield Pool, a Dutch tax transparent pool of assets, Stichting Pensioenfonds voor Fysiotherapeuten, a Dutch pension plan regulated by the Dutch Central Bank, Houston Municipal Employees Pension System, a pension plan organized pursuant to Texas government code, UAW Retiree Medical Benefits Trust, a trust consisting of three separate employees' beneficiary associations, DDJ Distressed and Special Situations Fund, L.P., a Delaware limited partnership, Russell Investment Company - Russell Global Opportunistic Credit Fund, a Massachusetts business trust, and DDJ Capital Management Group Trust - High Yield Investment Fund, a trust maintained by The Bank of New York Mellon, a New York State chartered bank, as trustee (collectively, the "**DDJ Purchasers**").

WHEREAS, on May 13, 2011, the Company issued 280,000 shares of Series A Participating Convertible Preferred Stock, par value $0.01 per share, of the Company (the "**Existing Series A Preferred Stock**") for a purchase price of $1,000 per share thereof;

WHEREAS, in connection with the issuance of the Existing Series A Preferred Stock, the Company, certain of the Harbinger Affiliates (as defined below) and the purchasers of the Existing Series A Preferred Stock entered into a Securities Purchase Agreement, a Registration Rights Agreement (as amended and supplemented by the Registration Rights Amendment and Joinder (as defined below), the "**Registration Rights Agreement**"), a Corporate Opportunities Agreement, a Tag-Along Agreement, and the Certificate of Designation of Series A Participating Convertible Preferred Stock of Harbinger Group Inc. (the "**Existing Certificate of Designation**"), in each case dated as of May 12, 2011 (collectively, the "**Existing Series A Transaction Agreements**");

WHEREAS, the Company has authorized the issuance and sale of 75,000 shares of Series A-2 Participating Convertible Preferred Stock, par value $0.01 per share, of the Company (the "**Convertible Preferred Stock**"), the rights, preferences and privileges of which are to be set forth in a Certificate of Designation, in the form attached hereto as Exhibit A (the "**Certificate of Designation**"), which shares of Convertible Preferred Stock shall be convertible into authorized but unissued shares of Common Stock (as defined below);

WHEREAS, subject to the terms and conditions set forth herein, the Company desires to issue and sell to the several Purchasers, and the several Purchasers desire to purchase from the Company, the Shares (as defined below);

WHEREAS, the Board (as defined below) has (i) determined that it is in the best interests of the Company and its stockholders, and declared it advisable, to enter into this Agreement and the other Transaction Agreements (as defined below) to which the Company is a party providing for the transactions contemplated hereby and thereby in accordance with the General Corporation Law of the State of Delaware (the "**DGCL**"), upon the terms and subject to the conditions set forth herein, and (ii) approved the execution, delivery and performance of this Agreement and the other Transaction Agreements to which the Company is a party and the consummation of the transactions contemplated hereby and thereby in accordance with the DGCL upon the terms and conditions contained herein and therein;

WHEREAS, each Purchaser has approved the execution, delivery and performance of this Agreement and the other Transaction Agreements to which it is a party and the consummation of the transactions contemplated hereby and thereby in accordance with applicable law upon the terms and conditions contained herein and therein; and

WHEREAS, as a condition to the consummation of the transactions contemplated hereby, on the Closing Date the Purchasers, the Company and/or certain of the Harbinger Affiliates and holders of Existing Series A Preferred Stock will enter into (i) an amendment and joinder to the Registration Rights Agreement in the form attached as Exhibit B hereto (the "**Registration Rights Amendment and Joinder**"), and (ii) the Amended and Restated Tag-Along Side Letter in the form attached as Exhibit C hereto (the "**Tag-Along Agreement**").

NOW THEREFORE, in consideration of the mutual agreements, representations, warranties and covenants herein contained, the parties hereto agree as follows:

1. Definitions. As used in this Agreement, the following terms shall have the following respective meanings:

"**Accreting Dividends**" shall have the meaning set forth in the Certificate of Designation.

"**Acquisition Date**" means July 9, 2009.

"**Additional Permitted Preferred Stock**" shall have the meaning set forth in the Certificate of Designation.

"**Affiliate**" means, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, such specified Person. Notwithstanding the foregoing, (i) none of the Company, its Subsidiaries or its other controlled Affiliates, nor any Harbinger Affiliates shall be considered Affiliates of any Purchaser, (ii) no Purchaser shall be considered an Affiliate of any Portfolio Company in which such Purchaser or any of its Affiliates have made a debt or equity investment (provided, however, that for purposes of Sections 5.4 and 5.6 hereof, a Purchaser shall be considered an Affiliate of any such Portfolio Company if such Portfolio Company has received material confidential information regarding the Company or any of its Subsidiaries from such

Purchaser or any of its Affiliates in violation of Section 5.10 (disregarding for this purpose clause (v) of Section 5.10(a)), and (iii) no Purchaser shall be considered an Affiliate of any other Purchaser or any of such other Purchaser's Affiliates; provided, however, that a Portfolio Company shall be deemed to be an Affiliate of a Purchaser if such Purchaser, directly or indirectly, encouraged, directed or caused such Portfolio Company to take any action that would have been prohibited by the terms of this Agreement if such Portfolio Company had been an Affiliate of such Purchaser but for clause (ii) of this definition.

"**Agreement**" shall have the meaning set forth in the preamble.

"**Antitrust Laws**" means the HSR Act and any foreign antitrust Laws.

"**Basket Amount**" shall have the meaning set forth in Section 10.4.

"**Beneficially Own**," "**Beneficially Owned**," or "**Beneficial Ownership**" shall have the meaning set forth in Rule 13d-3 of the rules and regulations promulgated under the Exchange Act; provided, however, that, other than for purposes of the definition of "Hedging Agreement", a Person will be deemed to be the beneficial owner of any security which may be acquired by such Person whether within 60 days or thereafter, upon the conversion, exchange or exercise (without giving effect to any provision governing such security that would limit, reduce or otherwise restrict the conversion, exchange or exercise features of such security) of any rights, options, warrants or similar securities to subscribe for, purchase or otherwise acquire such security; provided, further, that for purposes of Section 5.4, the Convertible Preferred Stock shall be deemed to be convertible at any time notwithstanding the limitations on conversion thereof contained in SECTION 5 of the Certificate of Designation.

"**Benefit Plans**" with respect to any Person shall mean each material "employee benefit plan" (within the meaning of Section 3(3) of ERISA), and all stock purchase, stock option, severance, employment, change-in-control, fringe benefit, collective bargaining, bonus, incentive, deferred compensation, employee loan and all other employee benefit plans, agreements, programs, policies or other arrangements, whether or not subject to ERISA (including any funding mechanism therefor now in effect or required in the future as a result of the transaction contemplated by this Agreement or otherwise), whether formal or informal, oral or written, legally binding or not, under which any employee of such Person or its Subsidiaries has any present or future right to benefits or which are contributed to, sponsored by or maintained by the Person or any of its Subsidiaries.

"**Board**" shall mean the Board of Directors of the Company.

"**Business Day**" shall mean any day, other than a Saturday, Sunday and any day which is a legal holiday under the laws of the State of New York or is a day on which banking institutions located in the State of New York are authorized or required by Law or other governmental action to close.

"**Capitalization Date**" shall have the meaning set forth in Section 3.2(a).

"**Certificate of Designation**" shall have the meaning set forth in the recitals.

"**Closing**" shall have the meaning set forth in Section 2.2.

"**Closing Date**" shall have the meaning set forth in Section 2.2.

"**Code**" shall mean the Internal Revenue Code of 1986, as amended.

"**Common Stock**" shall mean the Common Stock, par value $0.01 per share, of the Company, or any other shares of capital stock into which the Common Stock shall be reclassified or changed.

"**Company**" shall have the meaning set forth in the preamble.

"**Company Annual Report"** shall have the meaning set forth in Section 3.8(a).

"**Company Change in Control Event**" means any transaction or series of transactions (as a result of a tender offer, merger, consolidation, reorganization or otherwise) that results in, (i) the sale, lease, exchange, conveyance, transfer or other disposition (for cash, shares of stock, securities or other consideration) of all or substantially all of the property or assets of the Company and its Subsidiaries (taken as a whole) to any Person or "group" (within the meaning of Section 13(d)(3) of the Exchange Act) (including any liquidation, dissolution or winding up of the affairs of the Company, or any other distribution made, in connection therewith); (ii) any Person or "group" (within the meaning of Section 13(d)(3) of the Exchange Act) becoming the ultimate Beneficial Owner, directly or indirectly, of 35% or more of the voting power of the Voting Stock of the Company other than a Harbinger Affiliate or any Purchaser (aggregated with its Affiliates); provided, that such event shall not be deemed a Change of Control so long as one or more Harbinger Affiliates shall Beneficially Own more of the voting power of the Voting Stock of the Company than such person or group; or (iii) the Continuing Directors ceasing to constitute a majority of the members of the Board. For purposes of this definition, (x) any direct or indirect holding company of the Company shall not itself be considered a Person for purposes of clause (ii) above or a "person" or "group" for purposes of clause (ii) above, provided that no "person" or "group" (other than the Harbinger Affiliates or another such holding company) Beneficially Owns, directly or indirectly, more than 50% of the voting power of the voting stock of such company, and a majority of the voting stock of such holding company immediately following it becoming the holding company of the Company is Beneficially Owned by the Persons who Beneficially Owned the voting power of the Voting Stock of the Company immediately prior to it becoming such holding company and (y) a Person shall not be deemed to have beneficial ownership of securities subject to a stock purchase agreement, merger agreement or similar agreement until the consummation of the transactions contemplated by such agreement.

"**Company Financial Statements** shall have the meaning set forth in Section 3.8(c).

"**Company Indemnified Party"** shall have the meaning set forth in Section 10.3.

"**Company Intellectual Property**" shall have the meaning set forth in Section 3.12(c).

"**Company Option**" shall mean an option to acquire shares of Common Stock that was issued under any Company Stock Plan.

"**Company SEC Filings"** shall have the meaning set forth in Section 3.8(a).

"**Company Stock Plans**" shall mean the plans listed on Section 1.2 of the Disclosure Letter.

"**Company Voting Stock**" shall mean securities of any class or kind ordinarily having the power to vote generally for the election of Directors of the Company or its successor (including the Common Stock and the Convertible Preferred Stock).

"**Confidential Information**" shall have the meaning set forth in Section 5.9(a).

"**Consent**" shall have the meaning set forth in Section 3.6.

"**Continuing Directors**" means, as of any date of determination, any member of the Board who was: (x) a member of the Board on the Closing Date; (y) nominated for election or elected pursuant to any of the Transaction Agreements, or (z) nominated for election or elected to such Board with the approval of the Harbinger Affiliates or a majority of the Continuing Directors who were members of such Board at the time of such nomination or election.

"**Contracts**" shall have the meaning set forth in Section 3.23(a)(v).

"**control**" (including the terms "**controlling**" "**controlled by**" and "**under common control with**") with respect to any Person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of voting securities, by contract or otherwise. For the avoidance of doubt, as of the date hereof (but without precluding a different determination as of any date subsequent to the date hereof dependent on the relevant facts and circumstances at such time), the Company shall not be considered to control Spectrum.

"**Conversion Shares**" shall mean the shares of Common Stock issuable upon the conversion of the Convertible Preferred Stock as provided for in the Certificate of Designation.

"**Convertible Preferred Stock**" shall have the meaning set forth in the recitals.

"**DDJ Purchasers**" shall have the meaning set forth in the preamble.

"**DGCL**" shall have the meaning set forth in the recitals.

"**Director**" means any member of the Board.

"**Disclosure Letter**" shall have the meaning set forth in Section 3.

"**DTC**" shall have the meaning set forth in Section 9(b).

"**Environmental Law**" shall mean any and all Laws relating to the protection of the environment (including ambient air, surface water, groundwater or land) or natural resources and any other Laws concerning human exposure to Hazardous Substances.

"**Environmental Permits**" shall have the meaning set forth in Section 3.20(a)(i).

"**ERISA**" shall mean the Employee Retirement Income Security Act of 1974, as amended.

"**ERISA Affiliate**" shall have the meaning set forth in Section 3.13(d).

"**Equity Securities**" shall mean, with respect to any Person, (i) shares of capital stock of, or other equity or voting interest in, such Person, (ii) any securities convertible into or exchangeable for shares of capital stock of, or other equity or voting interest in, such Person, (iii) options, warrants, rights or other commitments or agreements to acquire from such Person, or that obligates such Person to issue, any capital stock of, or other equity or voting interest in, or any securities convertible into or exchangeable for shares of capital stock of, or other equity or voting interest in, such Person, (iv) obligations of such Person to grant, extend or enter into any subscription, warrant, right, convertible or exchangeable security or other similar agreement or commitment relating to any capital stock of, or other equity or voting interest (including any voting debt) in, such Person and (v) the capital stock of such Person.

"**Exchange Act**" shall mean the Securities Exchange Act of 1934, as amended, and all of the rules and regulations promulgated thereunder.

"**Existing Certificate of Designation**" shall have the meaning set forth in the recitals.

"**Existing Series A Preferred Stock**" shall have the meaning set forth in the recitals.

"**Existing Series A Transaction Agreements**" shall have the meaning set forth in the recitals.

"**F&G**" shall mean Fidelity & Guaranty Life Holdings, Inc., a Delaware corporation (f/k/a Old Mutual U.S. Life Holdings, Inc.).

"**F&G Purchase Agreement**" shall mean the First Amended and Restated Stock Purchase Agreement, dated as of February 17, 2011, between OM Group (UK) Limited and Harbinger F&G.

"**F&G Financial Statements**" shall have the meaning set forth in Section 3.8(f).

"**First Amendment to the Certificate of Designation**" shall have the meaning set forth in Section 5.10.

"**Foreign Benefit Plans**" shall have the meaning set forth in Section 3.13(f).

"**Form S-4**" shall have the meaning set forth in Section 3.8(a).

"**GAAP**" shall have the meaning set forth in Section 3.8(c).

"**Governmental Entity**" shall mean any United States or non-United States federal, state or local government, or any agency, bureau, board, commission, department, tribunal or instrumentality thereof or any court, tribunal, or arbitral or judicial body.

"**Harbinger Affiliate**" shall mean any of Philip A. Falcone, Harbinger Capital Partners, or any limited partnership, limited liability company, corporation or other entity that controls, is controlled by, or is under common control with Philip A. Falcone or Harbinger Capital Partners (other than the Company and its Subsidiaries).

"**Harbinger Capital Partners**" shall mean Harbinger Capital Partners LLC and Harbinger Capital Partners II LP, collectively.

"**Harbinger F&G**" shall mean Harbinger F&G, LLC (f/k/a Harbinger OM, LLC).

"**Hazardous Substance**" shall mean any substance, material or chemical that is characterized or regulated under any Environmental Law as "hazardous," a "pollutant," "waste," a "contaminant," "toxic" or words of similar meaning or effect, or that could result in liability under any Environmental Law, and shall include petroleum and petroleum products, polychlorinated biphenyls, lead, crystalline silica and asbestos.

"**Hedging Agreement**" shall mean any swap, forward or option contract or any other agreement, arrangement, contract or transaction that hedges the direct economic exposure to a decline in value resulting from ownership by any Person of the Common Stock, the Convertible Preferred Stock or the equity securities of any Subsidiary of the Company that are traded on a national securities exchange, regardless of whether any such agreement, arrangement, contract or transaction is to be settled by delivery of securities, in cash or otherwise; provided, however, that, for the avoidance of doubt, in no event shall an agreement providing for (i) the direct Transfer of Common Stock or Convertible Preferred Stock actually Beneficially Owned by such Person or (ii) transactions involving an index-based portfolio of securities that includes Common Stock or common equity securities of any Subsidiary (provided that the value of such Common Stock or common equity securities of any Subsidiary, as applicable, in such portfolio is not more than 10% of the total value of the portfolio of securities, or if the value of such Common Stock or common equity securities of any Subsidiary, as applicable, is more than 10% of the total value of the portfolio of securities, then such transaction was not entered into for purposes of hedging such Common Stock or common equity securities of a Subsidiary, as applicable) be deemed a "Hedging Agreement" hereunder.

"**Hedging Limitation Period**" shall mean the period from the date hereof until the earlier of (i) the twelve (12) month anniversary of the Closing or (ii) the occurrence of a Specified Breach Event.

"**HSR Act**" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and all of the rules and regulations promulgated thereunder.

"**Indemnified Party**" shall have the meaning set forth in Section 10.5.

"**Indemnifying Party**" shall have the meaning set forth in Section 10.5.

"**Insurance Regulatory Authorities**" shall have the meaning set forth in Section 5.1(b).

"**Insurance Subsidiaries**" shall have the meaning set forth in the F&G Purchase Agreement.

"Intermediate Holding Company Subsidiary" shall mean any Subsidiary of the Company that is a holding company that holds equity interests in two (2) or more Portfolio Companies engaged in unrelated lines of business; provided, however, that (w) Spectrum shall not be considered an Intermediate Holding Company Subsidiary, (x) the reinsurance and insurance businesses shall be considered to be a single line of business, (y) any Portfolio Company that operates in more than one (1) Specified Industry shall be an Intermediate Holding Company Subsidiary and (z) any Portfolio Company that operates in only one (1) Specified Industry shall not be an Intermediate Holding Company Subsidiary.

"**Intellectual Property**" shall mean all U.S. or foreign intellectual property, including (i) patents, trademarks, service marks, trade names, domain names, other source indicators and the goodwill of the business symbolized thereby, copyrights, works of authorship in any medium, designs and trade secrets, (ii) applications for and registrations of such patents, trademarks, service marks, trade names, domain names, copyrights and designs ("**Registered Intellectual Property**"), (iii) inventions, processes, formulae, methods, schematics, technology, know-how, computer software programs and applications, and (iv) other tangible or intangible proprietary or confidential information and materials.

"**JHL**" shall have the meaning set forth in Section 5.7.

"**JHL Purchaser**" shall have the meaning set forth in the preamble.

"**Knowledge**" shall mean, with respect to the Company, the knowledge of any of the Persons set forth on Section 1.1 of the Disclosure Letter. Such individuals will be deemed to have "knowledge" of a particular fact or other matter if (i) such individual has or at any time had actual knowledge of such fact or other matter or (ii) a prudent individual would be expected to discover or otherwise become aware of such fact or other matter in the course of conducting a reasonably diligent review concerning the existence thereof with each employee of the Company or any of its Subsidiaries who reports directly to such individual and who (x) has responsibilities or (y) would reasonably be expected to have actual knowledge of circumstances or other information, in each case, that would reasonably be expected to be pertinent to such fact or other matter. Notwithstanding the foregoing, the Company will be deemed to have knowledge of any fact or matter of which an officer of the Company has received written notice (whether in hard copy, digital or electronic format).

"**Law**" shall have the meaning set forth in Section 3.5.

"**Leased Real Property**" shall have the meaning set forth in Section 3.21(b).

"**Legal Proceeding**" shall mean any action, suit, litigation, petition, claim, arbitration, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding), hearing, inquiry, or investigation by or before, or otherwise involving, any court or other Governmental Entity or arbitral body.

"**Liability**" shall mean any liability, obligation or commitment of any kind (whether accrued, absolute, contingent, matured, unmatured or otherwise and whether or not required to be recorded or reflected on a balance sheet prepared in accordance with GAAP).

"**Lien**" shall have the meaning set forth in Section 3.5.

"**Losses**" shall mean any and all actions, causes of action, suits, claims, liabilities, losses, damages, penalties, judgments, costs and out-of-pocket expenses in connection therewith (including reasonable attorneys' fees and expenses), it being agreed that Losses may include any losses that any Person deciding any dispute in respect thereof (whether a court, jury or other Person) may determine are recoverable, including if so determined to be recoverable, losses that represent diminution in value.

"**Material Adverse Effect**" shall mean any fact, circumstance, event, change, effect, occurrence or development (each, a "**Change**") that, individually or in the aggregate with all other Changes, has a material adverse effect on or with respect to the business, operations, assets (including intangible assets), liabilities, results of operation or financial condition of the Company and its Subsidiaries taken as a whole, provided, however, that a Material Adverse Effect shall not include any Change (by itself or when aggregated or taken together with any and all other Changes) (i) generally affecting the industries in which the Company and its Subsidiaries operate or economic conditions in the United States (including changes in the capital or financial markets generally); (ii) resulting from any outbreak or escalation of hostilities or acts of war or terrorism, political instability or other national or international calamity, crisis or emergency, or any governmental or other response to any of the foregoing, in each case whether or not involving the United States; (iii) resulting from changes (or proposed changes) in Law or GAAP (or authoritative interpretations thereof); (iv) resulting from changes in the market price or trading volume of the Company's or Spectrum's securities or from the failure of the Company or any of its Subsidiaries to meet projections, forecasts or estimates (it being understood that the causes underlying such failure may be considered in determining whether a Material Adverse Effect has occurred or would reasonably be expected to occur); (v) acts of God (including earthquakes, storms, fires, floods and natural catastrophes), (vi) effects relating to or arising from the announcement of the execution of this Agreement or the Existing Series A Transaction Agreements or the transactions contemplated hereby or thereby or the identity of any Purchaser or a Purchaser's Affiliates, including the loss of any customers, suppliers or employees; (vii) effects resulting from compliance with the terms and conditions of this Agreement or any other Transaction Agreement to which the Company is a party by the Company or any of its Subsidiaries or consented to in writing by a Purchaser, (viii) the seasonality of the business of the Company or any of its Subsidiaries, or (ix) any breach of this Agreement by a Purchaser, except to the extent that, with respect to clauses (i), (ii), (iii), (iv) and (v), the impact of such Changes is disproportionately adverse to the Company and its Subsidiaries. For purposes of Sections 3.8(f), 3.8(g) and 3.27(q),it is expressly agreed that with respect to the historical financial statements of F&G referenced therein, no error or omission or alleged error or omission therein will be considered in determining whether a Material Adverse Effect has occurred unless and then only to the extent such error or omission would have or would reasonably be expected to result in a Fair Market Value (as defined in the Indenture) of F&G as of May 13, 2011 that is less than $350 million and would otherwise constitute a Material Adverse Effect (and then only to the extent the Fair Market Value of F&G as of May 13, 2011 is less than $350 million).

"**Material Contracts**" shall have the meaning set forth in Section 3.23(a).

"**New York Court**" shall have the meaning set forth in Section 12.5(b).

"**Notes**" shall mean the Company's 10.625% Senior Secured Notes due 2015.

"**NYSE**" shall have the meaning set forth in the Section 3.16(a).

"**Participation Rights Fraction**" shall mean, in the case of any Purchaser, a fraction, the numerator of which is the product of (A) the number of shares of Common Stock held by such Purchaser on a fully-diluted basis from either the Shares or the Common Stock issuable on conversion of the Shares, as of such date, multiplied by (B) 0.75, and the denominator of which is the number of shares of Common Stock then outstanding on a fully-diluted basis, as of such date.

"**Permitted Liens**" means, (a) local, state and federal Laws, including, without limitation, zoning or planning restrictions, and utility lines, easements, permits, covenants, conditions, restrictions, rights-of-way, oil, gas or mineral leases of record and other restrictions or limitations on the use of real property or irregularities in title thereto, which do not materially impair the value of such properties or the continued use of such property for the purposes for which the property is currently being used by the Company or any Subsidiary, (b) Liens for Taxes not yet due and payable, that are payable without penalty or that are being contested in good faith and for which adequate reserves have been recorded on the Company Financial Statements, (c) Liens for carriers', warehousemen's, mechanics', repairmen's, workers' and similar Liens incurred in the ordinary course of business, consistent with past practice, in each case for sums not yet due and payable or due but not delinquent or being contested in good faith by appropriate proceedings and for which adequate reserves have been recorded on the Company Financial Statements, (d) Liens incurred in the ordinary course of business, consistent with past practice, in connection with workers' compensation, unemployment insurance and other types of social security or to secure the performance of tenders, statutory obligations, surety and appeal bonds, bids, leases, government contracts, performance and return of money bonds and similar obligations, which do not materially impair the value of the underlying property or the continued use of such property for the purposes for which the property is currently being used by the Company or any Subsidiary, (e) Liens granted under equipment leases with third parties entered into in the ordinary course of business consistent with past practice, (f) Liens permissible under any applicable loan agreements and indentures, (g) restrictions arising under applicable securities Laws and (h) Liens securing the Notes.

"**Person**" shall mean an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture or any other entity or organization.

"Portfolio Company" shall have the meaning set forth in the Certificate of Designation.

"**Preferred Stock**" shall have the meaning set forth in Section 3.2(a).

"**Protected Information**" shall have the meaning set forth in Section 5.1(b).

"**Purchasers**" means, collectively, the Soros Purchaser, the DDJ Purchasers and the JHL Purchaser.

"**Purchaser Adverse Effect**" shall have the meaning set forth in the Section 4.3.

"**Purchaser Indemnified Party**" shall have the meaning set forth in Section 10.1.

"**Registered Intellectual Property**" shall have the meaning set forth in the definition of "Intellectual Property".

"**Registration Rights Agreement**" shall have the meaning set forth in the recitals.

"**Registration Rights Amendment and Joinder**" shall have the meaning set forth in the recitals.

"**Representatives**" means, with respect to any Person, such Person's Affiliates (other than any Portfolio Company) and their respective directors, officers, employees, managers, trustees, principals, stockholders, members, general or limited partners, agents and other representatives.

"**Rule 144**" shall have the meaning set forth in Section 4.8(a).

"**SEC**" shall mean the Securities and Exchange Commission.

"**Securities Act**" shall mean the Securities Act of 1933, as amended, and all of the rules and regulations promulgated thereunder.

"**Securities Exercise Notice"** shall have the meaning set forth in Section 5.5(b)(ii).

"**Securities Participation Amount**" shall have the meaning set forth in Section 5.5(a).

"**Securities Participation Right**" shall have the meaning set forth in Section 5.5(a).

"**Securities Participation Rights Notice**" shall have the meaning set forth in Section 5.5(b)(i).

"**SFM**" shall have the meaning set forth in Section 5.7.

"**Shares**" shall have the meaning set forth in Section 2.1.

"**Share Purchase Price**" shall have the meaning set forth in the Section 2.1.

"**Significant Subsidiary**" shall mean any Subsidiary or group of Subsidiaries that would, taken together, be a "significant subsidiary" as defined in Article 1, Rule 1-02 (w)(1) or (2) of Regulation S-X promulgated under the Securities Act, as such regulation is in effect from time to time; provided, however, that Spectrum and its Subsidiaries shall be deemed not to be Significant Subsidiaries of the Company for purposes of Section 3.

"**Soros Purchaser**" shall have the meaning set forth in the preamble.

"**Specified Breach Event**" shall have the meaning set forth in the Certificate of Designation.

"**Specified Industries**" shall mean the consumer products, insurance and financial products, agriculture, power generation and water and natural resources industries.

"**Spectrum**" shall mean Spectrum Brands Holdings, Inc., a Delaware corporation.

"**Spectrum Financial Statements"** shall have the meaning set forth in the Section 3.8(e).

"**Spectrum SEC Reports"** shall have the meaning set forth in the Section 3.27(p).

"**Standstill Period**" shall have the meaning set forth in Section 5.4(a).

"**Subsidiary**" of any Person shall mean any corporation, partnership, joint venture, limited liability company, trust or other form of legal entity (whether incorporated or unincorporated) of which (or in which) more than 50% of (i) the Total Current Voting Power; (ii) the interest in the capital or profits of such partnership, joint venture or limited liability company; or (iii) the beneficial interest in such trust or estate; is, directly or indirectly, owned or controlled by such Person, by such Person and one or more of its other Subsidiaries or by one or more of such Person's other Subsidiaries; provided, however, that Spectrum and F&G and their respective Subsidiaries shall be deemed not to be Subsidiaries of the Company for purposes of Section 3 (other than Sections 3.2, 3.8(e), 3.8(f), 3.8(g), 3.10(a), 3.23(a)(i), 3.23(a)(vii) and 3.26) or for purposes of the definition of "Benefit Plan"; provided, further, however, that F&G and its Subsidiaries shall be deemed to be Subsidiaries of the Company for purposes of Sections 3.19. For the avoidance of doubt, Spectrum, F&G and their respective Subsidiaries shall be deemed to be Subsidiaries of the Company for purposes of the definition of "Material Adverse Effect."

"**Survival Period**" shall have the meaning set forth in Section 10.2.

"Tag-Along Agreement" shall have the meaning set forth in the recitals.

"**Tax Returns**" shall mean returns, reports, information statements and other documentation (including any additional or supporting material) filed or required to be filed in connection with the calculation, determination, assessment or collection of any Tax, including any schedules or amendments thereto.

"**Taxes**" shall mean any and all taxes, levies, fees, imposts, duties and charges of whatever kind (including any interest, penalties or additions to the tax imposed in connection therewith or with respect thereto) imposed by any Governmental Authority, including, without limitation, taxes imposed on, or measured by, income, franchise, profits or gross receipts, and any ad valorem, value added, sales, use, service, real or personal property, capital stock, license, payroll, withholding, employment, social security, workers' compensation, unemployment compensation, utility, severance, production, excise, stamp, occupation, premium, windfall profits, transfer and gains taxes and customs or duties.

"**Third Party Intellectual Property**" shall have the meaning set forth in Section 3.12(c).

"**Total Current Voting Power**" shall mean, with respect to any entity, at the time of determination of Total Current Voting Power, the total number of votes which may be cast in the

general election of directors of such entity (or, in the event the entity is not a corporation, the governing members, board or other similar body of such entity).

"**Transaction Agreements**" shall mean this Agreement, the Certificate of Designation, the Tag-Along Agreement, the Registration Rights Amendment and Joinder and the First Amendment to the Certificate of Designation.

"**Transfer**" shall mean the direct or indirect transfer, sale, assignment, exchange, distribution, mortgage, pledge or disposition of any Equity Securities of the Company.

"**Treasury Regulation**" shall mean the Treasury Regulations promulgated under the Code.

"**Voting Stock**" shall mean securities of any class or kind ordinarily having the power to vote generally for the election of (x) Directors of the Company or its successor (including the Common Stock and the Convertible Preferred Stock) or (y) directors of any Subsidiary of the Company.

"**Wholly Owned Subsidiary**" means (x) any Subsidiary of the Company of which the Company owns, either directly or indirectly, 100% of the outstanding equity interests of such Subsidiary (excluding qualifying shares held by directors), and (y) Zap.Com.

"**Zap.Com**" shall mean Zap.Com Corporation, a corporation formed under the Laws of the State of Nevada.

"**Zap.Com Financial Statements**" shall have the meaning set forth in Section 3.8(d).

"**Zap.Com SEC Reports"** shall have the meaning set forth in Section 3.8(b).

2. Authorization, Purchase and Sale of Shares.

2.1 Authorization, Purchase and Sale. Subject to and upon the terms and conditions of this Agreement, the Company will issue and sell to the several Purchasers, and the several Purchasers will purchase from the Company, at the Closing, the number of shares of Convertible Preferred Stock set forth next to each such Purchaser's name on Annex A (each, a "**Share**" and collectively, the "**Shares**"). The purchase price per Share shall be $1,000 and the aggregate purchase price (the "**Share Purchase Price**") for the Shares shall be the amount set forth on Annex A.

2.2 Closing.

(a) The closing of the purchase and sale of the Shares (the "**Closing**") shall take place at the offices of Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, New York 10019 on August 5, 2011, following the satisfaction or waiver of each of the conditions set forth in Section 6 (other than those conditions which, by their terms, are to be satisfied or waived at the Closing), or at such other place or such other date as agreed to by the parties hereto (the "**Closing Date**").

(b) At the Closing:

(i) the Company shall deliver to each Purchaser one or more certificates representing the Shares purchased by such Purchaser; and

(ii) each Purchaser shall deliver, or cause to be delivered, to the Company an amount equal to the portion of the Share Purchase Price set forth next to such Purchaser's name on Annex A by wire transfer of immediately available funds to an account that the Company shall designate at least one (1) Business Day prior to the Closing Date.

3. Representations and Warranties of the Company. Except as set forth in the disclosure letter delivered by the Company to the Purchasers on the date hereof (the "**Disclosure Letter**") (it being agreed that disclosure of any item in any section of the Disclosure Letter shall also be deemed disclosure with respect to any other Section of this Agreement to which the relevance of such item is reasonably apparent) or as disclosed in the Company SEC Filings, Spectrum SEC Reports or the Zap.com SEC Reports, filed and publicly available prior to the date of this Agreement and only as and to the extent disclosed therein (but excluding any risk factor disclosures contained under the heading "Risk Factors," any disclosure of risks included in any "forward-looking statements" disclaimer or any other statements that are similarly forward-looking), the Company hereby represents and warrants to the Purchasers as follows:

3.1 Organization and Power.

(a) Each of the Company and its Subsidiaries is a legal entity duly organized, validly existing and in good standing under the Laws of its respective jurisdiction of organization. Each of the Company and its Subsidiaries has the requisite corporate power and authority to carry on its respective business as it is presently being conducted and to own, lease or operate its respective properties and assets, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) Each of the Company and its Subsidiaries is duly qualified to do business and is in good standing as a foreign corporation (or other legal entity) in each jurisdiction where the ownership, leasing or operation of its assets or properties or conduct of its business requires such qualification, except where the failure to be so qualified or in good standing would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The organizational or governing documents of the Company and each of its Subsidiaries are in full force and effect. Neither the Company nor any Subsidiary is in violation of its organizational or governing documents. The Company has delivered or made available to the Purchasers complete and correct copies of the certificates of incorporation and bylaws or other constituent documents, as amended to date and currently in full force and effect, of the Company and its Significant Subsidiaries.

3.2 Capitalization.

(a) As of the date of this Agreement, the authorized shares of capital stock of the Company consist of 500,000,000 shares of Common Stock and 10,000,000 shares of

preferred stock, par value $0.01 per share ("**Preferred Stock**"). As of the close of business on July 22, 2011 (the "**Capitalization Date**"), (i) 139,284,286 shares of Common Stock were issued and outstanding, (ii) 6,273,241 shares of Common Stock were reserved for issuance under the Company Stock Plans, (iii) 280,000 shares of Existing Series A Preferred Stock were issued and outstanding, (v) a sufficient number of shares of Common Stock were reserved for issuance upon conversion of the Existing Series A Preferred Stock, and (v) zero shares of Common Stock or Preferred Stock were held by the Company as treasury shares. All outstanding shares of Common Stock are validly issued, fully paid, nonassessable and free of preemptive or similar rights. Since the Capitalization Date, the Company has not sold or issued or repurchased, redeemed or otherwise acquired any shares of the Company's capital stock (other than issuances pursuant to the exercise of any Company Option or vesting of any share unit award that had been granted under any Company Stock Plan, or repurchases, redemptions or other acquisitions pursuant to agreements contemplated by a Company Stock Plan). No Subsidiary of the Company owns any Equity Securities of the Company.

(b) As of the Capitalization Date, with respect to the Company Stock Plans, (i) there were 404,833 shares of Common Stock underlying outstanding Company Options to acquire shares of Common Stock, such outstanding Company Options having a weighted average exercise price per share as of the Capitalization Date of $6.18, (ii) there were zero shares of Common Stock issuable upon the vesting of outstanding share award units, and (iii) 5,868,408 additional shares of Common Stock were reserved for issuance for future grants pursuant to the Company Stock Plans. All shares of Common Stock reserved for issuance as noted in the foregoing sentence, when issued in accordance with the respective terms thereof, are or will be validly issued, fully paid, nonassessable and free of preemptive or similar rights. Each Company Option was granted with an exercise price per share equal to or greater than the per share fair market value (as such term is used in Code Section 409A and the regulations and other interpretive guidance issued thereunder) of the Common Stock underlying such Company Option on the grant date thereof and was otherwise issued in material compliance with applicable Law.

(c) Except as set forth in this Section 3.2, as of the date of this Agreement, there are no outstanding Equity Securities of the Company and no other obligations by the Company or any of its Subsidiaries to make any payments based on the price or value of any Equity Securities of the Company. Except as set forth in the Existing Series A Transaction Agreements, there are no outstanding agreements of any kind which obligate the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any Equity Securities of the Company.

(d) Except as set forth in the Transaction Agreements, the Existing Series A Transaction Agreements or in any registration rights agreements filed as exhibits to the Company's SEC Reports, neither the Company nor any of its Subsidiaries is a party to any agreement relating to the voting of, requiring registration of, or granting any preemptive, anti-dilutive rights or rights of first refusal or other similar rights with respect to any Equity Securities of the Company.

(e) Upon the filing of the Certificate of Designation with the Secretary of State of the State of Delaware, (i) the Convertible Preferred Stock will be duly authorized and (ii) a sufficient number of Conversion Shares will have been duly authorized and validly

reserved for issuance upon conversion of the Shares in accordance with the Certificate of Designation. When the Shares are issued and paid for in accordance with the provisions of this Agreement and the Certificate of Designation, all such Shares will be duly authorized, validly issued, fully paid, nonassessable and free of preemptive or similar rights except as set forth in the Transaction Agreements. When Conversion Shares are issued in accordance with the provisions of the Certificate of Designation all such Conversion Shares will be duly authorized, validly issued, fully paid, nonassessable and free of preemptive rights.

3.3 Authorization. The Company has all requisite corporate power to enter into each of the Transaction Agreements to which it is a party and to consummate the transactions contemplated by each of the Transaction Agreements to which it is a party and to carry out and perform its obligations thereunder. All corporate action on the part of the Company, its officers and directors necessary for the authorization of the Convertible Preferred Stock and the authorization, execution, delivery and performance of the Transaction Agreements to which the Company is a party has been taken. The execution, delivery and performance of the Transaction Agreements to which the Company is a party by the Company and the issuance of the Common Stock upon conversion of the Shares, in each case in accordance with their terms, and the consummation of the other transactions contemplated herein do not require any approval of the Company's stockholders. Upon their respective execution by the Company and the other parties thereto and assuming that they constitute legal and binding agreements of each Purchaser party thereto, each of the Transaction Agreements to which the Company is a party will constitute a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except that such enforceability (a) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar Laws affecting or relating to creditors' rights generally, and (b) is subject to general principles of equity (regardless of whether considered in a proceeding in equity or at Law).

3.4 Registration Requirements. Subject to the accuracy of the representations made by the Purchasers in Section 4, the offer, sale and issuance of the Shares and the conversion of the Shares into Common Stock in accordance with the Certificate of Designation (i) has been and will be made in compliance with applicable exemptions from the registration and prospectus delivery requirements of the Securities Act and (ii) will have been registered or qualified (or are exempt from registration and qualification) under the registration, permit or qualification requirements of all applicable Blue Sky laws.

3.5 No Conflict. The execution, delivery and performance of the Transaction Agreements to which the Company is a party by the Company, the issuance of the Shares and the Common Stock upon conversion of the Shares and the consummation of the other transactions contemplated hereby and by the other Transaction Agreements to which the Company is a party will not (i) conflict with or result in any violation of any provision of the certificate of incorporation or bylaws of the Company, or, upon its filing with the Secretary of State of the State of Delaware, the Certificate of Designation, (ii) result in any breach or violation of, or default (with or without notice or lapse of time, or both) under, require consent under, or give rise to a right of termination, cancellation, modification or acceleration of any obligation or to the loss of any benefit under any mortgage, Contract, purchase or sale order, instrument, permit, concession, franchise, right or license binding upon the Company or any of its Subsidiaries or result in the creation of any liens, claims, mortgages, encumbrances, pledges, security interests,

equities or charges of any kind (each, a "**Lien**") upon any of the properties, assets or rights of the Company or any of its Subsidiaries, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or to prevent or materially delay or hinder the ability of the Company to perform its obligations under the Transaction Agreements, or (iii) subject to the matters referred to in Section 3.6, conflict with or violate any applicable material law, statute, code, ordinance, rule, regulation, or agency requirement of or undertaking to or agreement with any Governmental Entity, including common law (collectively, "**Laws**" and each, a "**Law**") or any judgment, order, injunction or decree issued by any Governmental Entity.

3.6 Consents. No consent, approval, order, or authorization of, or filing or registration with, or notification to (any of the foregoing being a "**Consent**"), any Governmental Entity is required on the part of the Company or its Subsidiaries in connection with (a) the execution, delivery or performance of the Transaction Agreements to which the Company is a party and the consummation of the transactions contemplated hereby and thereby, or (b) the issuance of the Shares or the issuance of the Common Stock upon conversion of the Shares in accordance with the Certificate of Designation; other than (i) the filing of the Certificate of Designation with the Secretary of State of the State of Delaware, (ii) the expiration or termination of any applicable waiting periods under the Antitrust Laws with respect to performance under the Transaction Agreements, or the consummation of transactions, in each case occurring after the Closing, (iii) those to be obtained, in connection with the registration of the Shares under the Registration Rights Agreement, under the applicable requirements of the Securities Act and any related filings and approvals under applicable state securities laws, (iv) such filings as may be required under any applicable requirements of the Exchange Act or the rules of the NYSE and (v) such Consents the failure of which to make or obtain would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or to prevent or materially delay or hinder the ability of the Company to perform its obligations under the Transaction Agreements.

3.7 Permits. The Company and each of its Subsidiaries possess all permits, licenses, authorizations, consents, approvals and franchises of Governmental Entities that are required to conduct its business, except for such permits or licenses the absence of which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on the ability of the Company and its Subsidiaries, taken as a whole, to conduct their businesses consistent with past practices.

3.8 SEC Reports; Financial Statements.

(a) The Company has filed all forms, reports and documents with the SEC that have been required to be filed by it under applicable Laws since the Acquisition Date (collectively, with the Registration Statement on Form S-4 (File No. 333-171924) as amended or superseded by a filing prior to the date of this Agreement (the "**Form S-4**"), the "**Company SEC Filings**"), including the Annual Report of the Company on Form 10-K for the fiscal year ended December 31, 2010, as amended through the date of this Agreement (the "**Company Annual Report**"). Each Company SEC Filing complied as of its filing date as to form in all material respects with the applicable requirements of the Securities Act or the Exchange Act, as the case may be, each as in effect on the date such Company SEC Filing was filed (and, if amended or superseded by a filing prior to the date of this Agreement, on the date of such amended or

superseded filing). As of its filing date (and, if amended or superseded by a filing prior to the date of this Agreement, on the date of such amended or superseded filing), each Company SEC Filing did not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading. Other than Spectrum and Zap.Com, none of the Company's Subsidiaries is required to file any forms, reports or other documents with the SEC pursuant to Sections 13(a) or 15(d) of the Exchange Act. Since the Acquisition Date, no executive officer of the Company or Zap.Com has failed to make the certifications required by him or her under Section 302 and 906 of the Sarbanes Oxley Act of 2002 with respect to any Company SEC Filing or Zap.Com SEC Report. There are no transactions that have occurred since the Acquisition Date that are required to be disclosed in the Company SEC Filings pursuant to Item 404 of Regulation S-K that have not been disclosed in the Company SEC Filings.

(b) Zap.Com has filed all forms, reports and documents with the SEC that have been required to be filed by it under applicable Laws since January 1, 2010 (the "**Zap.Com SEC Reports**"). Each Zap.Com SEC Report complied as of its filing date, as to form in all material respects with the applicable requirements of the Securities Act or the Exchange Act, as the case may be, each as in effect on the date such Zap.Com SEC Report was filed (and, if amended or superseded by a filing prior to the date of this Agreement, on the date of such amended or superseded filing). As of its filing date (and, if amended or superseded by a filing prior to the date of this Agreement, on the date of such amended or superseded filing), each Zap.Com SEC Report did not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(c) The consolidated financial statements (including all related notes and schedules) of the Company and its Subsidiaries included in the Company SEC Filings and (collectively, the "**Company Financial Statements**") (i) comply as to form in all material respects with the published rules and regulations of the SEC with respect thereto, and (ii) fairly present, in all material respects, the consolidated financial position of the Company and its Subsidiaries as of the dates indicated and the results of their operations and their cash flows for the periods therein specified, all in accordance with United States generally accepted accounting principles applied on a consistent basis ("**GAAP**") throughout the periods therein specified (except as otherwise noted therein, and in the case of quarterly financial statements except for the absence of footnote disclosure and subject, in the case of interim periods, to normal year-end adjustments).

(d) The financial statements (including all related notes and schedules) of Zap.Com included in the Zap.Com SEC Reports (collectively, the "**Zap.Com Financial Statements**") (i) comply as to form in all material respects with the published rules and regulations of the SEC with respect thereto, and (ii) fairly present, in all material respects, the consolidated financial position of Zap.Com and its Subsidiaries as of the dates indicated and the results of their operations and their cash flows for the periods therein specified, all in accordance with GAAP throughout the periods therein specified (except as otherwise noted therein, and in the case of quarterly financial statements except for the absence of footnote disclosure and subject, in the case of interim periods, to normal year-end adjustments).

(e) To the Company's Knowledge, the financial statements (including all related notes and schedules) of Spectrum included in the Spectrum SEC Reports (collectively, the "**Spectrum Financial Statements**") (i) comply as to form in all material respects with the published rules and regulations of the SEC applicable with respect thereto, and (ii) fairly present, in all material respects, the consolidated financial position of Spectrum and its Subsidiaries as of the dates indicated and the results of their operations and their cash flows for the periods therein specified, all in accordance with GAAP throughout the periods therein specified (except as otherwise noted therein, and in the case of quarterly financial statements except for the absence of footnote disclosure and subject, in the case of interim periods, to normal year-end adjustments).

(f) To the Company's Knowledge, the financial statements (including all related notes and schedules) of F&G included in the Form S-4 (collectively, the "**F&G Financial Statements**") (i) comply as to form in all material respects with the published rules and regulations of the SEC applicable with respect thereto, and (ii) fairly present, in all material respects, the consolidated financial position of F&G and its Subsidiaries as of the dates indicated and the results of their operations and their cash flows for the periods therein specified, all in accordance with GAAP throughout the periods therein specified (except as otherwise noted therein, and in the case of quarterly financial statements except for the absence of footnote disclosure and subject, in the case of interim periods, to normal year-end adjustments), except, in each case, as would not and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(g) Except as disclosed on Section 3.8(g) of the Disclosure Letter, there are no Liabilities of the Company or any of its Subsidiaries of any kind whatsoever, other than: (i) Liabilities disclosed and provided for in the Company Financial Statements, the Spectrum Financial Statements, the F&G Financial Statements or in the Zap.Com Financial Statements; (ii) Liabilities incurred in the ordinary course of business consistent with past practice; (iii) Liabilities incurred in connection with the transactions contemplated by this Agreement, the other Transaction Agreements or the Existing Series A Transaction Agreements, in each case to which the Company is a party or (iv) Liabilities that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(h) The Company's principal executive officer and its principal financial officer have (i) devised and maintained a system of internal accounting controls sufficient to provide reasonable assurances regarding the reliability of financial reporting and preparation of financial statements in accordance with GAAP, and have evaluated such system at the times required by the Exchange Act and in any event no less frequently than at reasonable intervals and (ii) disclosed to the Company's management, auditors and the audit committee of the Board (x) all significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the Company's or any of its Subsidiaries' (other than Spectrum, Harbinger F&G and their Subsidiaries, as to which no representation is made pursuant to this clause (ii)(x)) ability to record, process, summarize and report financial information and (y) any fraud, whether or not material, that involves management or other employees who have a significant role in the internal controls of the Company, and the Company has provided to the Purchasers copies of any written materials relating to the foregoing. To the Company's Knowledge, Spectrum's principal

executive officer and its principal financial officer have disclosed to Spectrum's management, auditors and the audit committee of Spectrum's board of directors (x) all significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect Spectrum's or any of its Subsidiaries' ability to record, process, summarize and report financial information and (y) any fraud, whether or not material, that involves management or other employees who have a significant role in the internal controls of Spectrum. As of the date of this Agreement, the Company has no Knowledge of any material weaknesses in the internal controls over financial reporting of Harbinger F&G and its Subsidiaries, that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. The Company has established and maintains disclosure controls and procedures (as such term is defined in Rule 13a 15 under the Exchange Act); such disclosure controls and procedures are designed to ensure that material information relating to the Company and its Subsidiaries (other than Harbinger F&G and its Subsidiaries as to which the Company is in the process of implementing its disclosure controls and procedures.) required to be included in the Company's periodic reports under the Exchange Act is made known to the Company's principal executive officer and its principal financial officer by others within those entities, and such disclosure controls and procedures are sufficient to ensure that the Company's principal executive officer and its principal financial officer are made aware of such material information required to be included in the Company's periodic reports required under the Exchange Act. There are no outstanding loans made by the Company or any of its Subsidiaries to any executive officer (as defined in Rule 3b-7 under the Exchange Act) or director of the Company. Neither the Company, since the Acquisition Date, nor any Subsidiary of the Company, since the date that the Company acquired (either directly or indirectly) a majority of the outstanding capital stock of such Subsidiary, has made any loans to any executive officer (as defined in Rule 3b-7 under the Exchange Act) or director of the Company or any of its Subsidiaries.

3.9 Litigation. Except as set forth on Section 3.9 of the Disclosure Letter, there are no (i) investigations or, to the Knowledge of the Company, proceedings pending or threatened by any Governmental Entity with respect to the Company or any of its Subsidiaries or any of their properties or assets, (ii) Legal Proceedings pending or, to the Knowledge of the Company, threatened against or affecting the Company or any of its Subsidiaries, or any of their respective properties or assets, at Law or in equity that would reasonably be expected to result in liability to the Company or its Subsidiaries in excess of $250,000, or (iii) orders, judgments or decrees of any Governmental Entity against the Company or any of its Subsidiaries.

3.10 Absence of Certain Changes. Since December 31, 2010 and except as disclosed on Section 3.10 of the Disclosure Letter, the business of the Company and its Subsidiaries has been conducted in the ordinary course of business consistent with past practices and there has not been:

(a) any Change which, individually or in the aggregate, has had or would reasonably be expected to have a Material Adverse Effect;

(b) any declaration, setting aside or payment of any dividend or other distribution with respect to any shares of capital stock of the Company, or any repurchase;

redemption or other acquisition by the Company or any of its Subsidiaries of any outstanding shares of capital stock or other securities of the Company or any of its Subsidiaries;

(c) any incurrence, assumption or guarantee by the Company or any of its Subsidiaries of any indebtedness for borrowed money in excess of $25,000, individually, or $100,000, in the aggregate, or the repurchase, redemption or repayment of any indebtedness for borrowed money of the Company or any of its Subsidiaries in excess of $25,000, individually, or $100,000, in the aggregate;

(d) any event of default (or event which with notice, the passage of time or both, would become an event of default) in the payment of any indebtedness for borrowed money in an aggregate principal amount in excess of $100,000 by the Company or any of its Subsidiaries;

(e) any change in any methods of accounting by the Company or any of its Subsidiaries, except as may be appropriate to conform to changes in GAAP; or

(f) any material Tax election made by the Company or any of its Subsidiaries or any settlement or compromise of any material Tax liability by the Company or any of its Subsidiaries, except (i) as required by applicable Law or (ii) with respect to any material Tax election, consistent with elections historically made by the Company.

3.11 Compliance with Law. The Company and each of its Subsidiaries are in compliance with and are not in default under or in violation of, and have not received any written notices of non-compliance, default or violation with respect to, any material Laws, in each case, except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect or to materially delay or hinder the ability of the Company to perform its obligations under the Transaction Agreements.

3.12 Intellectual Property.

(a) The Company and its Subsidiaries own, license, sublicense or otherwise possess legally enforceable rights to use all Intellectual Property necessary to conduct the business of the Company and its Subsidiaries, as currently conducted, free and clear of all Liens (other than non-exclusive licenses granted in the ordinary course of business), except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, all Intellectual Property developed for the Company or any of its Subsidiaries by any employees, contractors and consultants of the Company or any of its Subsidiaries is exclusively owned by the Company or one of its Subsidiaries, free and clear of all Liens (other than non-exclusive licenses granted in the ordinary course of business or Permitted Liens).

(b) All Registered Intellectual Property owned by the Company or any of its Subsidiaries is subsisting and has not expired or been cancelled or abandoned and, to the Company's Knowledge, is valid and enforceable, except, in each case, as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. To the

Company's Knowledge, no third party is infringing, violating or misappropriating any of the Company Intellectual Property in any material respect.

(c) The execution and delivery of the Transaction Agreements to which the Company is a party by the Company and the consummation of the transactions contemplated hereby and thereby will not result in the breach of, or create on behalf of any third party the right to terminate or modify, (i) any license or other agreement relating to any Intellectual Property owned by the Company or any of its Subsidiaries (the "**Company Intellectual Property**"), or (ii) any license, sublicense and other agreement as to which the Company or any of its Subsidiaries is a party and pursuant to which the Company or any of its Subsidiaries is authorized to use any third party Intellectual Property, excluding generally commercially available, off-the-shelf software programs licensed for a license fee of less than $50,000 in the aggregate (the "**Third Party Intellectual Property**"), except, in either case, as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(d) The conduct of the business of the Company and its Subsidiaries has not infringed, violated or constituted a misappropriation of any Intellectual Property of any third party and as currently conducted does not infringe, violate or constitute a misappropriation of any Intellectual Property of any third party, except, in either case, as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Neither the Company nor any of its Subsidiaries (i) has received any written claim or notice alleging any such infringement, violation or misappropriation, or (ii) has been or is subject to any settlement, order, decree, injunction, or stipulation imposed by any Governmental Entity that may affect the use, validity or enforceability of Company Intellectual Property.

(e) The Company and its Subsidiaries take all reasonable actions to protect the Company Intellectual Property and to protect and preserve the confidentiality of their trade secrets, including disclosing trade secrets to a third party only where such third party is bound by a confidentiality agreement, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

3.13 Employee Benefits.

(a) Prior to the date hereof, a complete and correct copy of each Benefit Plan of the Company has been delivered or otherwise made available to the Purchasers.

(b) Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, with respect to any Benefit Plan of the Company, no Legal Proceeding has been threatened, asserted, instituted, or, to the Knowledge of the Company, is anticipated (other than non-material routine claims for benefits, and appeals of such claims), and, to the Knowledge of the Company, no facts or circumstances exist that would give rise to any such Legal Proceeding.

(c) Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, each Benefit Plan of the Company has been established and administered in accordance with its terms, and in compliance with the applicable

provisions of ERISA, the Code and all other applicable laws, rules and regulations, and each Benefit Plan of the Company that is intended to be qualified under Section 401(a) of the Code has received a favorable determination or opinion letter from the Internal Revenue Service to the effect that such Benefit Plan of the Company is qualified under the Code and nothing has occurred that would reasonably be expected to cause the loss of such qualification.

(d) Except as set forth on Section 3.13(d) of the Disclosure Letter, neither the Company, any of its Subsidiaries, nor any other entity which, together with the Company or any of its Wholly Owned Subsidiaries would be treated as a single employer under Section 4001 of ERISA or Section 414 of the Code (each such entity, an "**ERISA Affiliate**") sponsors, maintains, contributes to, or has had in the past six (6) years an obligation at any time to sponsor, maintain or contribute to, or has any liability in respect of (i) any "defined benefit pension plan" (as defined in Section 3(35) of ERISA), (ii) any "employee benefit plan" (as defined in Section 3(3) of ERISA) subject to Section 412 of the Code or Section 302 of ERISA or Title IV of ERISA, including any "multiemployer plan" (as defined in Section 4001(a)(15) of ERISA), (iii) any other plan which is subject to Section 4063, 4064 or 4069 of ERISA, or (iv) any "employee pension benefit plan" (within the meaning of Section 3(2) of ERISA) that is not intended to be qualified under Section 401(a) of the Code. Except as set forth in Section 3.13(d) of the Disclosure Letter, and except as required by Section 4980B of the Code, no Benefit Plan of the Company provides any retiree or post-employment medical, disability or life insurance benefits to any person. The assets of any defined benefit pension plan equal or exceed the projected benefit obligation of such plan, as determined using the actuarial assumptions used for purposes of the Company Financial Statements.

(e) Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, neither the execution of the Transaction Agreements nor the consummation of the transactions contemplated hereby and thereby will (i) accelerate the time of payment or vesting or increase the amount of compensation or benefits due to any Company employee, or (ii) give rise to any other liability or funding obligation under any Benefit Plan of the Company or otherwise, including liability for severance pay, unemployment compensation or termination pay.

(f) Except as set forth on Section 3.13(f) of the Disclosure Letter, no Benefit Plan of the Company is maintained outside the jurisdiction of the United States, or covers any employee residing or working outside the United States (any such Benefit Plan the "**Foreign Benefit Plans**"). Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, all Foreign Benefit Plans that are required to be funded are fully funded, and with respect to all other Foreign Benefit Plans, adequate reserves therefor have been established on the accounting statements of the Company or its applicable Subsidiary.

3.14 Labor Relations.

(a) (i) Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or as set forth on Section 3.14 of the Disclosure Letter, no Company employee is represented by a labor union or works council and, to the Knowledge of the Company, no organizing efforts have been conducted within the last

three years or are now being conducted, (ii) neither the Company nor any of its Subsidiaries is a party to any material collective bargaining agreement or other labor contract or collective agreement, and (iii) neither the Company nor any of its Subsidiaries currently has, or, to the Knowledge of the Company, is there now threatened, a strike, picket, work stoppage, work slowdown or other material labor dispute.

(b) (i) Each of the Company and its Subsidiaries has complied with all applicable laws relating to the employment of labor, including all applicable laws relating to wages, hours, collective bargaining, employment discrimination, civil rights, safety and health, workers' compensation, pay equity and the collection and payment of withholding and/or social security taxes, except as would not, individually or in the aggregate, have a Material Adverse Effect and (ii) neither the Company nor any of its Subsidiaries has incurred any liability or obligation under the Worker Adjustment and Retraining Notification Act or any similar state or local Law within the last two years which remains unsatisfied.

3.15 Taxes.

(a) The Company and each of its Subsidiaries have filed all Tax Returns required to have been filed as of the date hereof (or extensions have been duly obtained) and such Tax Returns are correct and complete in all respects and have paid all Taxes required to have been timely paid by them in full through the date hereof, except to the extent such Taxes are both (i) being challenged in good faith and (ii) adequately provided for on the financial statements of the Company and its Subsidiaries in accordance with GAAP, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) Neither the Company nor any of its Subsidiaries has any current liability, and to the Knowledge of the Company, there are no events or circumstances which would result in any liability, for Taxes of any Person (other than the Company and its Subsidiaries) under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign law), as a transferee or successor, by contract or otherwise, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(c) None of the Company or any of its Subsidiaries is a party to, is bound by or has any obligation under any Tax sharing or Tax indemnity agreement or similar Contract or arrangement other than any such agreement or similar Contract or arrangement between the Company and any of its Subsidiaries.

(d) All Taxes required to be withheld, collected or deposited by or with respect to Company and each of its Subsidiaries have been timely withheld, collected or deposited as the case may be, and to the extent required, have been paid to the relevant taxing authority, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(e) No deficiencies for any Taxes have been proposed or assessed in writing against or with respect to the Company or any of its Subsidiaries, and there is no outstanding audit, assessment, dispute or claim concerning any Tax liability of the Company or any of its Subsidiaries pending or raised by an authority in writing, except as would not,

individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. No written claim has been made by any Governmental Entity in a jurisdiction where neither the Company nor any of its Subsidiaries files Tax Returns that the Company or any of its Subsidiaries is or may be subject to taxation by that jurisdiction. Neither the Company nor any of its Subsidiaries has granted any waiver of any federal, state, local or foreign statute of limitations with respect to, or any extension of a period for the assessment of, any material Tax.

(f) There are no Liens with respect to Taxes upon any of the assets or properties of either the Company or any of its Subsidiaries, other than with respect to Taxes not yet delinquent, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(g) No closing agreement pursuant to Section 7121 of the Code (or any similar provision of state, local or foreign law) has been entered into by or with respect to the Company or any of its Subsidiaries.

(h) Neither the Company nor any of its Subsidiaries has participated in a "listed transaction" within the meaning of Treasury Regulation Section 1.6011-4(b)(2).

(i) The representations and warranties expressly set forth in this Section 3.15 shall be the only representations and warranties, express or implied, written or oral, with respect to the subject matter contained in this Section 3.15.

3.16 NYSE.

(a) Shares of the Common Stock are registered pursuant to Section 12(b) of the Exchange Act and are listed on The New York Stock Exchange (the "**NYSE**"), and there is no action pending by the Company or any other Person to terminate the registration of the Common Stock under the Exchange Act or to delist the Common Stock from NYSE, nor has the Company received any notification that the SEC or the NYSE is currently contemplating terminating such registration or listing.

(b) The shares of Common Stock issuable upon conversion of the Shares have been approved by the NYSE for listing on the NYSE.

(c) The representations and warranties expressly set forth in this Section 3.16 shall be the only representations and warranties, express or implied, written or oral, with respect to the subject matter contained in this Section 3.16.

3.17 Investment Company Act. The Company is not, nor immediately after the Company's receipt of the Share Purchase Price from the Purchasers, will the Company be, an "investment company" within the meaning of, and required to be registered under, the Investment Company Act of 1940, as amended.

3.18 Brokers. Except for Jefferies & Company, Inc., the Company has not retained, utilized or been represented by any broker or finder who is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement.

3.19 Subsidiaries.

(a) As of the date hereof, the Company has no Subsidiaries other than as listed in Exhibit 21.1 to the Company Annual Report and Harbinger F&G and any Subsidiaries thereof, which are listed on Section 3.19 of the Disclosure Letter.

(b) Except as set forth on Section 3.19 of the Disclosure Letter, all of the outstanding shares of capital stock of, or other equity or voting interest in, each Subsidiary of the Company (i) have been duly authorized, validly issued and are fully paid and nonassessable and (ii) are owned, directly or indirectly, by the Company, free and clear of all Liens (other than restrictions under applicable securities Laws and Liens securing the Notes).

3.20 Environmental Matters.

(a) Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or as set forth on Section 3.20 of the Disclosure Letter:

(i) The Company and its Subsidiaries and their respective operations are and have been in compliance with all, and have not violated any, applicable Environmental Laws, which compliance includes the possession and maintenance of, and compliance with, all permits, licenses, authorizations, waivers, exemptions, registrations, consents, approvals and franchises from Governmental Entities required under applicable Environmental Laws ("**Environmental Permits**") for the operation of the business of the Company and its Subsidiaries; the Company has no reason to believe that any such Environmental Permits will be modified, revoked or otherwise made ineffective, or will not be renewed on terms substantially the same as those currently in effect;

(ii) Neither the Company nor any of its Subsidiaries, nor any other entity for which the Company or any of its Subsidiaries is responsible, has transported, produced, processed, manufactured, generated, used, treated, handled, stored or disposed of any Hazardous Substances, except in compliance with applicable Environmental Laws and in a manner that would not result in liability under any applicable Environmental Law. No Hazardous Substance has been released by the Company, the Subsidiaries, or to the Knowledge of the Company, by any other Person (including, without limitation, any of the predecessors in interest to the Company or any of its Subsidiaries), at, on, about or under (i) any property now or formerly owned, operated or leased by the Company, its Subsidiaries or their respective predecessors in interest; or (ii) any property to which the Company, its Subsidiaries or their respective predecessors in interest has sent waste;

(iii) Neither the Company nor any of its Subsidiaries, nor, to the Knowledge of the Company, any of their respective predecessors in interest has exposed any employee or any third party to Hazardous Substances in violation of, or in a manner that would result in liability under, any applicable Environmental Law or tort law;

(iv) Neither, the Company nor any of its Subsidiaries, nor, to the Knowledge of the Company, any of their respective predecessors in interest, is a party to or the subject of any pending, or, to the Knowledge of the Company, threatened, Legal Proceeding

alleging Liabilities under or noncompliance with any Environmental Law or seeking to impose any financial responsibility for any investigation, cleanup, removal, containment or any other remediation or compliance under any Environmental Law. Neither the Company nor any of its Subsidiaries, nor, to the Knowledge of the Company, any of their respective predecessors in interest, is subject to any orders, judgments or decrees or agreement by or with any Governmental Entity or third party imposing any Liabilities with respect to any Environmental Laws or any Hazardous Substances;

(v) There are no liabilities of any third party arising out of or related to Environmental Laws or Hazardous Substances that the Company, its Subsidiaries or, to the Knowledge of the Company, their respective predecessors in interest has expressly agreed to assume, to indemnify or retain by contract or otherwise;

(vi) Neither the Company nor the Subsidiaries has received any notice, claim, subpoena, or summons from any Person alleging: (i) any environmental liability relating to the Company, the Subsidiaries, or their respective predecessors in interest; or (ii) any violation by the Company, the Subsidiaries or their respective predecessors in interest of any Environmental Law;

(vii) Neither the Company nor any of its Subsidiaries has manufactured any products that are not or were not in compliance with all Environmental Laws applicable to such products to be imported, sold, or otherwise marketed in any jurisdiction in which such products are currently, or have been, imported, sold, or otherwise marketed; and

(viii) None of the products currently or formerly manufactured, produced, distributed, sold, leased, licensed, repaired, delivered, installed, conveyed or otherwise put into the stream of commerce by the Company or any of its Subsidiaries, or, to the Knowledge of the Company, any other Person for which the Company or any of its Subsidiaries is responsible by contract or operation of law, contains or has contained (i) asbestos; or (ii) any other Hazardous Substance that has resulted in or would reasonably be expected to result in any liability to the Company or any of its Subsidiaries.

(b) As of the date hereof, all reports of environmental site assessments, reviews, audits, investigations or similar evaluations, and any material documents in the possession or control of the Company or any of its Subsidiaries concerning (i) environmental conditions at any facilities or real property ever owned, operated or leased by the Company, the Subsidiaries or any of their respective predecessors in interest; or (ii) any environmental liability of the Company, its Subsidiaries or any of their respective predecessors in interest have been made available to the Purchasers.

(c) The representations and warranties expressly set forth in this Section 3.20 shall be the only representations and warranties, express or implied, written or oral, with respect to the subject matter contained in this Section 3.20.

3.21 Assets.

(a) The Company and its Subsidiaries have good and marketable title to all of its or their real or personal properties (whether tangible or intangible), rights and assets,

except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, in each case, free and clear of all Liens (other than Permitted Liens). The properties and assets owned and leased by the Company and its Subsidiaries are sufficient to carry on their businesses as they are now being conducted except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, the Company or a Subsidiary of the Company has good and valid leasehold interests in all of its leased properties, whether as lessee or sublessee (the "**Leased Real Property**"), in each case, sufficient to conduct its respective businesses as currently conducted, free and clear of all Liens (other than Permitted Liens), assuming the timely discharge of all obligations owing under or related to Leased Real Property. Neither the Company nor any of its Subsidiaries owns any real property.

3.22 Insurance. The Company and its Subsidiaries have and maintain in effect policies of insurance covering the Company, its Subsidiaries or any of their respective employees, properties or assets, including policies of life, property, fire, workers' compensation, products liability, directors' and officers' liability and other casualty and liability insurance, that is in a form and amount that is customarily carried by persons conducting business similar to that of the Company and its Subsidiaries and which the Company reasonably believes are adequate for the operation of its business. All such insurance policies are in full force and effect, no written notice of cancellation has been received by the Company as of the date hereof and, to the Knowledge of the Company, no such notice is imminent, and there is no existing default or event which, with the giving of notice or lapse of time or both, would constitute a default, by any insured thereunder, except for such defaults that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. There is no material claim pending under any of such policies as to which coverage has been denied or disputed by the underwriters of such policies and there has been no threatened termination of any such policies, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

3.23 Material Contracts.

(a) Except as filed as an exhibit to the Company SEC Filings, Spectrum SEC Reports or Zap.com SEC Reports, there are none of the following (each a "**Material Contract**"):

(i) Contracts restricting the payment of dividends upon, or the redemption, repurchase or conversion of, the Convertible Preferred Stock or the Common Stock issuable upon conversion thereof;

(ii) joint venture, partnership, limited liability or other similar Contract or arrangement relating to the formation, creation, operation, management or control of any partnership or joint venture that is material to the business of the Company and its Subsidiaries, taken as a whole;

(iii) any Contract relating to the acquisition or disposition of any business, stock or assets that is material to the business of the Company and its Subsidiaries, taken as a whole, other than in the ordinary course of business consistent with past practice;

(iv) Contracts containing any covenant (x) limiting the right of the Company or any of its Subsidiaries to engage in any line of business or in any geographic area, or (y) prohibiting the Company or any of its Subsidiaries from engaging in business with any Person or levying a fine, charge or other payment for doing so;

(v) "material contracts" (as such term is defined in Item 601(b)(10) of Regulation S-K of the SEC, excluding any exhibits, schedules and annexes to such material contracts that are not required to be filed with the SEC, and those agreements and arrangements described in Item 601(b)(10)(iii)) with respect to the Company and its Subsidiaries required to be filed with the SEC (the Material Contracts, together with any lease, binding commitment, option, insurance policy, benefit plan or other contract, agreement, instrument or obligation (whether oral or written) to which the Company or any of its Subsidiaries may be bound, the "**Contracts**");

(vi) Contracts relating to indebtedness for borrowed money of the Company or any of its Subsidiaries in an amount exceeding $500,000;

(vii) Contracts that would be binding on the Purchasers or any of their Affiliates after the Closing;

(viii) Contracts with any Governmental Entity that imposes any material obligation or restriction on the Company or any of its Subsidiaries, taken as a whole; and

(ix) any material Contract with any current or former director, officer or employee.

(b) Each Material Contract is valid and binding on the Company (and/or each such Subsidiary of the Company party thereto) and, to the Knowledge of the Company, on each other party thereto, and is in full force and effect, and neither the Company nor any of its Subsidiaries that is a party thereto, nor, to the Knowledge of the Company, any other party thereto, is in breach of, or default under, any such Material Contract, and no event has occurred that with notice or lapse of time or both would constitute such a breach or default thereunder or would result in the termination thereof or would cause or permit the acceleration or other change of any right or obligation of the loss of any benefit thereunder by the Company or any of its Subsidiaries, or, to the Knowledge of the Company, any other party thereto, except for such failures to be in full force and effect and such breaches and defaults that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

3.24 Right of First Refusal; Stockholders Agreement; Voting and Registration Rights. Except as set forth on Section 3.24 of the Disclosure Letter or as provided for in this Agreement, the other Transaction Agreements or the Existing Series A Transaction Agreements, no party has any right of first refusal, right of first offer, right of co-sale, preemptive right, anti-

dilution right or other similar right regarding Equity Securities of the Company. Except as set forth on Section 3.24 of the Disclosure Letter, there are no provisions of the Company's organizational documents and no Material Contracts other than the Certificate of Designation, this Agreement, the other Transaction Agreements or the Existing Series A Transaction Agreements, which (a) may affect or restrict the voting rights of the Purchasers with respect to the Shares in their capacity as stockholders of the Company, (b) restrict the ability of the Purchasers, or any successor thereto or assignee or transferee thereof, to transfer the Shares, (c) would adversely affect the Company's or the Purchasers' right or ability to consummate the transactions contemplated by this Agreement or comply with the terms of the other Transaction Agreements or the Certificates of Designation and the transactions contemplated hereby or thereby, (d) require the vote of more than a majority of the Company's issued and outstanding Common Stock or require a separate class vote, voting together as a single class, to take or prevent any corporate action (other than those matters expressly requiring a different vote under the provisions of the DGCL) or (e) entitle any party to nominate or elect any director of the Company or require any of the Company's stockholders to vote for any such nominee or other person as a director of the Company.

3.25 Anti-Takeover Statutes. To the extent necessary, the Board has taken all required actions so that the restrictions on business combinations set forth in Article IX, Section (b) of the Company's certificate of incorporation are not applicable to the Transaction Agreements and the transactions contemplated hereby and thereby, including the acquisition of Beneficial Ownership by the Purchasers of additional shares of voting stock of the Company pursuant to additional issuances contemplated by the Certificate of Designation or through the exercise of the Purchasers' rights set forth in Section 5.5, and any other acquisition of Beneficial Ownership by the Purchasers of additional shares of voting stock of the Company made in compliance with Section 5.4. The Company has elected in its certificate of incorporation not to be governed by Section 203 of the DGCL and no other state takeover statute or similar regulation applies to or purports to apply to the Transaction Agreements and the transactions contemplated hereby and thereby.

3.26 No Additional Understandings. Other than the Transaction Agreements, (x) none of the Company, its Subsidiaries or any of the Harbinger Affiliates is a party to any agreement or other legally binding arrangement, whether oral or written, with any Purchaser or any Affiliate thereof relating to the Shares or the transactions contemplated by the Transaction Agreements and (y) none of the Purchasers or any of their Affiliates have been paid or are entitled to any transaction or similar fees or compensation from the Company, any of its Subsidiaries, or any Harbinger Affiliates (other than reimbursement of actual out-of-pocket costs and expenses as provided in Section 12.8) in connection herewith or therewith.

3.27 Spectrum and F&G.

(a) As of the date hereof, the Company directly or indirectly owns 27,756,905 shares of common stock of Spectrum free and clear of all Liens (other than restrictions under applicable securities Laws and Liens securing the Notes).

(b) Organization. Each of Spectrum and F&G and their respective Subsidiaries are validly existing and in good standing under the laws of their respective

jurisdictions of organization; and each of them is duly qualified to do business as a foreign corporation in good standing in all other jurisdictions in which its ownership or lease of property or the conduct of its business requires such qualification, except where the failure to be so qualified and in good standing would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(c) No Conflicts. The execution, delivery and performance of the Transaction Agreements, the issuance of the Shares and the Common Stock upon conversion of the Shares and the consummation of the other transactions contemplated hereby and by the other Transaction Agreements will not (i) conflict with or result in any violation of any provision of the certificate of incorporation or bylaws of Spectrum or Harbinger F&G or any of their respective Subsidiaries, (ii) result in any breach or violation of, or default (with or without notice or lapse of time, or both) under, require consent under, or give rise to a right of termination, cancellation, modification or acceleration of any obligation or to the loss of any benefit under any mortgage, Contract, purchase or sale order, instrument, permit, concession, franchise, right or license binding upon Spectrum or Harbinger F&G or any of their respective Subsidiaries or result in the creation of any Lien upon any of the properties, assets or rights of Spectrum or Harbinger F&G or any of their respective Subsidiaries, or (iii) subject to the matters referred to in Section 3.27(d), conflict with or violate any applicable Law or any judgment, order, injunction or decree issued by any Governmental Entity, except in each case with respect to clauses (i), (ii) and (iii), as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or to prevent or materially delay or hinder the ability of the Company to perform its obligations under the Transaction Agreements.

(d) No Consents. No Consent of any Governmental Entity is required on the part of Spectrum or Harbinger F&G or any of their respective Subsidiaries in connection with (a) the execution, delivery or performance of the Transaction Agreements party and the consummation of the transactions contemplated hereby and thereby, or (b) the issuance of the Shares or the issuance of the Common Stock upon conversion of the Shares in accordance with the Certificate of Designation; other than (i) such filings as may be required under any applicable requirements of the Exchange Act, and (ii) such Consents the failure of which to make or obtain would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or to prevent or materially delay or hinder the ability of the Company to perform its obligations under the Transaction Agreements.

(e) Permits. Each of Spectrum and its Subsidiaries possess all permits, licenses, authorizations, consents, approvals and franchises of Governmental Entities that are required to conduct its business, except for such permits or licenses the absence of which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(f) Litigation. To the Knowledge of the Company, except as disclosed on Section 3.27(f) of the Disclosure Letter, and except as disclosed in the Spectrum SEC Reports and the disclosure schedules to the F&G Purchase Agreement, there are no (i) investigations or proceedings pending or threatened by any Governmental Entity with respect to Spectrum or F&G or any of their respective Subsidiaries or any of their properties or assets, (ii) Legal Proceedings pending or, to the Knowledge of the Company, threatened against or affecting Spectrum or F&G or any of their respective Subsidiaries, or any of their respective properties or

assets, at law or in equity, or (iii) orders, judgments or decrees of any Governmental Entity against Spectrum or F&G or any of their respective Subsidiaries, except in the case of each of clauses (i), (ii), and (iii), which would not reasonably be expected to have a Material Adverse Effect.

(g) Compliance with Law. Except as set forth on Section 3.27(g) of the Disclosure Letter, each of Spectrum and F&G and each of their respective Subsidiaries are in compliance with and are not in default under or in violation of, and have not received any written notices of non-compliance, default or violation with respect to, any Laws, in each case, except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(h) Insurance. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, each of Spectrum and F&G and each of their respective Subsidiaries have and maintain in effect policies of insurance covering such entities, their respective Subsidiaries or any of their respective employees, properties or assets, including policies of life, property, fire, workers' compensation, products liability, directors' and officers' liability and other casualty and liability insurance, that is in a form and amount that is customarily carried by persons conducting business similar to that of such entities and which the Company reasonably believes are adequate for the operation of their respective businesses.

(i) Intellectual Property. To the Knowledge of the Company, each of Spectrum and F&G and their respective subsidiaries: (i) own, possess or can acquire on reasonable terms, adequate trademarks, trade names and other rights to inventions, know how, patents, copyrights, confidential information and other intellectual property (collectively, "intellectual property rights") necessary to conduct the business now operated by them, or presently employed by them, except where the failure to own, possess or acquire such intellectual property rights would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, and (ii) have not received any written notice of infringement of or conflict with asserted rights of others with respect to any intellectual property rights that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(j) Benefit Plans. To the Knowledge of the Company, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, each Benefit Plan of Spectrum and Benefit Plan of F&G and their respective Subsidiaries has been established and administered in accordance with its terms, and in compliance with the applicable provisions of ERISA, the Code and all other applicable laws, rules and regulations.

(k) Labor Matters. To the Knowledge of the Company, no labor dispute with the employees of Spectrum or F&G, or any of their respective Subsidiaries, exists or is imminent, except such labor disputes as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(l) Taxes. To the Knowledge of the Company, Spectrum, F&G and their respective Subsidiaries have filed all Tax Returns that are required to be filed or have requested extensions thereof (except in any case in which the failure so to file would not have a

Material Adverse Effect); and, to the Knowledge of the Company, Spectrum, F&G and their respective Subsidiaries have paid all Taxes required to be paid by them, except for any such Taxes currently being contested in good faith or as would not, individually or in the aggregate, have a Material Adverse Effect.

(m) Environmental Matters. To the Knowledge of the Company, none of Spectrum or F&G or their respective Subsidiaries is in violation of any Environmental Law, owns or operates any real property contaminated with any substance that is subject to any environmental laws, is liable for any off site disposal or contamination pursuant to any environmental laws, or is subject to any claim relating to any environmental laws, which violation, contamination, liability or claim would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect; nor to the Knowledge of the Company is there any pending investigation which would reasonably be expected to lead to such a claim.

(n) Title to Property. To the Knowledge of the Company, each of Spectrum, F&G and their respective Subsidiaries have good and marketable title in fee simple to all real property owned by them, good title to all personal property owned by them and valid leasehold interests in real and personal property being leased by them, in each case, as of the date hereof, free from all liens, charges, encumbrances and defects, except (x) for Permitted Liens as such term is defined in the Indenture, (y) for such as would not, individually or in the aggregate, reasonably be expected to interfere in any material respect with the use made and proposed to be made of such property by the Company and its Subsidiaries, or (z) for such as would not otherwise have a Material Adverse Effect.

(o) Spectrum SEC Compliance. To the Company's Knowledge, Spectrum has filed all forms, reports and documents with the SEC that have been required to be filed by it under applicable Laws since October 1, 2009 (the "**Spectrum SEC Reports**"). To the Company's Knowledge, each Spectrum SEC Report complied as of its filing date, as to form in all material respects with the applicable requirements of the Securities Act or the Exchange Act, as the case may be, each as in effect on the date such Spectrum SEC Report was filed (and, if amended or superseded by a filing prior to the date of this Agreement, on the date of such amended or superseded filing). To the Company's Knowledge, as of its filing date (and, if amended or superseded by a filing prior to the date of this Agreement, on the date of such amended or superseded filing), each Spectrum SEC Report did not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(p) F&G. The acquisition contemplated by the F&G Purchase Agreement has been consummated. Except as set forth on Section 3.27(p) of the Disclosure Letter, to the Knowledge of the Company, there has not been any breach of the representations and warranties made by OM Group (UK) Limited to Harbinger F&G in Article III of the F&G Purchase Agreement that has given or would reasonably be expected to give rise to a claim for indemnification under the F&G Purchase Agreement. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, each of the Insurance Subsidiaries possess all permits, licenses, authorizations, consents, approvals and franchises that are required by applicable Law to conduct their business in the ordinary course of business.

(q) Form S-4. To the Company's Knowledge, as of its effective date (and, if thereafter amended or superseded by a filing prior to the date of this Agreement, on the date of such amended or superseded filing), the financial statements of Spectrum and its subsidiaries incorporated by reference into the Form S-4, the financial statements of F&G and its subsidiaries incorporated by reference into the Form S-4 and the information contained in Annexes A through E included in the Form S-4 did not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading, except as would not and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

3.28 No Other Representations and Warranties. Except for the representations and warranties contained in Section 3 (including, or as qualified by, the Disclosure Letter), the Company makes no other representation or warranty, express or implied, written or oral, and hereby, to the maximum extent permitted by applicable Law, disclaims any such representation or warranty, whether by the Company or any other Person, with respect to the Company or with respect to any other information (including, without limitation, pro-forma financial information, financial projections or other forward-looking statements) provided to or made available to any Purchaser in connection with the transactions contemplated hereby. Neither the Company nor any other Person will have or be subject to any liability or indemnification obligation to any Purchaser or any other Person resulting from any other express or implied representation or warranty with respect to the Company, unless any such information is expressly included in a representation or warranty contained in Section 3 or in an applicable section of the Disclosure Letter.

4. Representations and Warranties of the Purchasers. Each Purchaser represents and warrants, severally and not jointly, to the Company as follows:

4.1 Organization. Such Purchaser is a legal entity duly organized, validly existing and in good standing under the Laws of the jurisdiction of its organization.

4.2 Authorization. Such Purchaser has all requisite corporate power to enter into this Agreement and the other Transaction Agreements to which such Purchaser is a party and to consummate the transactions contemplated by the Transaction Agreements to which such Purchaser is a party and to carry out and perform its obligations thereunder. All corporate or member action on the part of such Purchaser or the holders of the capital stock or other equity interests of such Purchaser necessary for the authorization, execution, delivery and performance of the Transaction Agreements to which such Purchaser is a party has been taken. Upon their respective execution by such Purchaser and the other parties thereto and assuming that they constitute legal and binding agreements of the Company, each of the Transaction Agreements to which such Purchaser is a party will constitute a legal, valid and binding obligation of such Purchaser, enforceable against such Purchaser in accordance with its terms, except that such enforceability (a) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar Laws affecting or relating to creditors' rights generally, and (b) is subject to general principles of equity (regardless of whether considered in a proceeding in equity or at Law).

4.3 No Conflict. The execution, delivery and performance of the Transaction Agreements to which such Purchaser is a party by such Purchaser, the issuance of the Shares and the Common Stock upon conversion of the Shares in accordance with the Certificate of Designation and the consummation of the other transactions contemplated hereby will not (i) conflict with or result in any violation of any provision of the certificate of incorporation or by-laws or other equivalent organizational document, in each case as amended, of such Purchaser, (ii) result in any breach or violation of, or default (with or without notice or lapse of time, or both) under, require consent under, any Contract binding upon such Purchaser or (iii) subject to the matters referred to in Section 4.4, conflict with or violate any applicable Laws or any judgment, order, injunction or decree issued by any Governmental Entity, except in the case of each of clauses (i), (ii) and (iii) as would not, individually or in the aggregate, be reasonably expected to materially delay or hinder the ability of such Purchaser to perform its obligations under the Transaction Agreements (with respect to each Purchaser, a "**Purchaser Adverse Effect**").

4.4 Consents. No Consent of any Governmental Entity is required on the part of such Purchaser in connection with (a) the execution, delivery or performance of the Transaction Agreements to which such Purchaser is a party and the consummation of the transactions contemplated hereby and thereby, and (b) the issuance of the Shares or the issuance of the Common Stock upon conversion of the Shares in accordance with the Certificate of Designation, other than (i) the expiration or termination of any applicable waiting periods under the Antitrust Laws with respect to the performance under the Transaction Agreements, or consummation of transactions, in each case occurring after the Closing, (ii) those to be obtained, in connection with the registration of the Shares under the Registration Rights Agreement, under the applicable requirements of the Securities Act and any related filings and approvals under applicable state securities Laws, (iii) such filings and approvals as may be required by any federal or state securities Laws, including compliance with any applicable requirements of the Exchange Act, and (iv) such Consents the failure of which to make or obtain would not, individually or in the aggregate, reasonably be expected to have a Purchaser Adverse Effect.

4.5 Brokers. Such Purchaser has not retained, utilized or been represented by any broker or finder in connection with the transactions contemplated by this Agreement whose fees the Company would be required to pay.

4.6 Purchase Entirely for Own Account. Such Purchaser is acquiring the Shares for its own account solely for the purpose of investment, not as nominee or agent, and not with a view to, or for sale in connection with, any distribution of the Shares in violation of the Securities Act, and such Purchaser has no present intention of selling, granting any participation in, or otherwise distributing the same, in violation of the Securities Act. Such Purchaser has no present agreement, undertaking, arrangement, obligation or commitment providing for the disposition of the Shares.

4.7 Investor Status. Such Purchaser certifies and represents to the Company that such Purchaser is an "accredited investor" as defined in Rule 501 of Regulation D promulgated under the Securities Act. Such Purchaser's financial condition is such that it is able to bear the risk of holding the Shares for an indefinite period of time and the risk of loss of its entire investment. Such Purchaser has been afforded the opportunity to receive information

from, and to ask questions of and receive answers from the management of, the Company concerning this investment so as to allow it to make an informed investment decision prior to its investment and has sufficient knowledge and experience in investing in companies similar to the Company so as to be able to evaluate the risks and merits of its investment in the Company.

4.8 Securities Not Registered.

(a) Such Purchaser understands that the Shares and the Conversion Shares have not been approved or disapproved by the SEC or by any state securities commission nor have the Shares or the Conversion Shares been registered under the Securities Act, by reason of their issuance by the Company in a transaction exempt from the registration requirements of the Securities Act, and that the Shares and the Conversion Shares must continue to be held by such Purchaser unless a subsequent disposition thereof is registered under the Securities Act or is exempt from such registration. Such Purchaser understands that the exemptions from registration afforded by Rule 144 under the Securities Act ("**Rule 144**") (the provisions of which are known to it) depend on the satisfaction of various conditions, and that, if applicable, Rule 144 may afford the basis for sales only in limited amounts.

(b) The Shares and the Conversion Shares shall be subject to the restrictions contained herein.

(c) It is understood that the Shares and the Conversion Shares, and any securities issued in respect thereof or in exchange therefor, may bear one or all of the legends set forth in Section 9.

4.9 Financing. Such Purchaser has (and at the Closing will have) an amount of cash sufficient to enable it to consummate the transactions contemplated hereunder (including the purchase of the Shares set forth next to such Purchaser's name on Annex A) on the terms and conditions set forth in this Agreement.

4.10 Equity Securities of the Company. Such Purchaser does not Beneficially Own any Equity Securities of the Company except, as of the Closing, the Shares.

4.11 Indebtedness. Except as disclosed to the Company in writing on or prior to the date hereof, neither such Purchaser nor any of its Affiliates owns any debt securities or other indebtedness issued by the Company or any of its Subsidiaries.

5. Covenants.

5.1 Regulatory Approval.

(a) [Reserved.]

(b) To the extent a filing, notification or submission is to be made under applicable insurance laws with the Vermont Department of Banking, Insurance, Securities and Health Care Administration, the New York State Insurance Department, the Maryland Insurance Administration, the Bermuda Monetary Authority or any other Governmental Entity regulating an insurance business of the Company or any of its controlled Affiliates (the

"**Insurance Regulatory Authorities**") in connection with the exercise by a Purchaser of its rights under the Transaction Agreements, upon the request of such Purchaser, the Company shall reasonably cooperate and assist such Purchaser in the making by it of any such filing, notification or submission with the Insurance Regulatory Authorities, including by promptly furnishing any information or documentation as those authorities may reasonably require or request from such Purchaser in connection with such filing, notification or submission. Each Purchaser hereto shall promptly inform the Company (and vice versa) of any meetings or hearings to be held with or before any Insurance Regulatory Authority regarding any of the transactions contemplated by the Transaction Agreements applicable to such Purchaser, and shall afford the Company or such Purchaser, as applicable, the opportunity to attend all such meetings and hearings to the extent permitted by such Insurance Regulatory Authority and applicable Law, except as to any portion of such meeting that addresses Protected Information (as defined below) of such Purchaser. Each Purchaser shall permit the Company and their counsel (and vice versa) the opportunity to review in advance, and comment upon, any proposed written communication to any Insurance Regulatory Authority, and provide the Company or such Purchaser, as applicable, with copies of all filings made by the Company or such Purchaser, as applicable, and all correspondence between such Purchaser (or its advisors) or the Company with any Insurance Regulatory Authority and any other information supplied by such Purchaser or the Company to, or received from, any Insurance Regulatory Authority, in each case relating to the transactions contemplated by the Transaction Agreements relating to such Purchaser, except to the extent prohibited by such Insurance Regulatory Authority or applicable Law or in the event any Insurance Regulatory Authority requires or requests a Purchaser or the Company or any of their Affiliates to provide or a Purchaser or the Company or any of their Affiliates otherwise provides: (i) personal financial information, including, but not limited to, any individual tax return or statement of net worth, or any other information that is of a personal or private nature, about any individual who is an employee, officer, director, general partner or limited partner (including the identity of any such limited partner) of such party or any of its Affiliates, or (ii) information that is either confidential or constitutes a trade secret of such party (the information described in the preceding clauses (i) and (ii), "**Protected Information**"), such party shall have no obligation to provide to the other party, and the other party shall have no right to review, such Protected Information, the other party shall not seek Protected Information from any such Insurance Regulatory Authority, and in the event any Insurance Regulatory Authority were to share such information with the other party, the other party agrees upon discovering this fact, to cease accessing or reading any Protected Information, not to disclose such information to any third party, and to return it (otherwise unread) to such party. Subject to applicable Law, each Purchaser and the Company shall have the right to file Protected Information separately from other correspondence, filings or communications, or to redact Protected Information from such documents prior to sharing them with the other party.

(c) Each Purchaser hereto shall promptly inform the Company (and vice versa) of any material communication from the Insurance Regulatory Authorities or any other Governmental Entity regarding any of the transactions contemplated by this Agreement relating to such Purchaser. If any Purchaser or the Company or any Affiliate thereof receives a request for additional information or documentation from any such Governmental Entity with respect to the transactions contemplated by this Agreement relating to such Purchaser, then such party will endeavor in good faith to make, or cause to be made, as soon as reasonably practicable and, if permitted by applicable Law, after consultation with the other party, an appropriate

response in compliance with such request; provided, however, the foregoing shall not require any party to disclose or otherwise provide any Protected Information.

5.2 Shares Issuable Upon Conversion. The Company will at all times have reserved and available for issuance such number of shares of Common Stock as shall be from time to time sufficient to permit the conversion in full of the outstanding Shares into Common Stock, including as may be adjusted for share splits, combinations or other similar transactions as of the date of determination or due to the accrual of Accreting Dividends.

5.3 Commercially Reasonable Efforts; Further Assurances; Notification.

(a) Upon the terms and subject to the conditions set forth in this Agreement, each of the Purchasers and the Company shall use commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other parties or parties hereto in doing, all things reasonably necessary, proper or advisable under applicable Law to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by this Agreement and the other Transaction Agreements, including using commercially reasonable efforts to: (i) cause the conditions to the Closing set forth in Section 6 to be satisfied; (ii) obtain all necessary actions or non-actions, waivers, consents, approvals, orders and authorizations from Governmental Entities and make all necessary registrations, declarations and filings with Governmental Entities; and (iii) execute or deliver any additional instruments reasonably necessary to consummate the transactions contemplated by, and to fully carry out the purposes of, this Agreement and the other Transaction Agreements.

(b) Each party agrees to cooperate with each other and their respective officers, employees, attorneys, accountants and other agents, and, generally, do such other reasonable acts and things in good faith as may be reasonably necessary to effectuate the transactions contemplated by this Agreement and the other Transaction Agreements, subject to the terms and conditions hereof and thereof and compliance with applicable Law, including taking reasonable action to facilitate the filing of any document or the taking of reasonable action to assist the other parties hereto in complying with the terms hereof and thereof.

5.4 Standstill.

(a) Each Purchaser hereby agrees that from Closing until the date that is the earlier of (i) the date such Purchaser ceases to hold any Shares and (ii) three (3) years following the Closing (the "**Standstill Period**"), such Purchaser shall not, and shall cause its Affiliates not to, directly or indirectly:

(i) make, or in any way participate, directly or indirectly, in any "solicitation" of "proxies" to vote (as such terms are used in the rules of the SEC), or seek to advise or influence any Person (other than (x) such Purchaser or its Affiliates, or (y) in accordance with and consistent with the recommendation of the Board) with respect to the voting of any Company Voting Stock;

(ii) authorize or commence any tender offer or exchange offer for shares of Company Voting Stock (for the avoidance of doubt, tendering into any tender offer

or exchange offer not otherwise violating this clause this Section 5.4(a)(ii) will not violate this Section 5.4(a)(ii));

(iii) form, join or in any way participate in a "group" as defined in Section 13(d)(3) of the Exchange Act, for the purpose of voting, acquiring, holding, or disposing of any Company Voting Stock;

(iv) submit to the Board a written proposal for or offer of (with or without conditions), any merger, recapitalization, reorganization, business combination or other extraordinary transaction involving the Company, or make any public announcement with respect to such proposal or offer;

(v) request the Company or any of its Affiliates, directly or indirectly, to amend or waive any provision of this Section 5.4; or

(vi) enter into any arrangements with any third party concerning any of the foregoing.

(b) If, at any time prior to the termination of the Standstill Period, (i) the Company has entered into a definitive agreement, the consummation of which would result in a Company Change in Control Event, (ii) any Person shall have commenced and not withdrawn a bona fide public tender or exchange offer which if consummated would result in a Company Change in Control Event and the Board has not recommended that the stockholders of the Company reject such offer within the time period contemplated by Rule 14e 3 under the Exchange Act, or (iii) the Company files or consents to the filing against the Company of a petition for relief or reorganization or arrangement or any other petition in bankruptcy, insolvency, reorganization or other similar Law, makes an assignment for the benefit of creditors or consents to the appointment of a custodian, receiver, trustee or other officer with similar powers with respect to the Company or with respect to any substantial part or its property, then, in each case, for so long as such condition continues to apply, the limitation on the actions described in clauses (i), (ii), (iii), (iv), (v) and (vi) of Section 5.4(a) (and any related acquisition of Beneficial Ownership by such Purchaser and/or their Affiliates) shall not be applicable to such Purchaser.

(c) Anything in this Section 5.4 to the contrary notwithstanding, this Section 5.4 shall not be construed to prohibit or restrict (i) any actions taken by any designee, nominee or appointee on the Board, in their capacities as a member of the Board and in compliance with and subject to his or her fiduciary duties as a member of the Board or (ii) the Purchaser from making non-public suggestions, recommendations and proposals regarding the future management of, or business plans of, the Company to the Company's management or its Board after the occurrence of a Specified Breach Event (as defined in the Certificate of Designation) that would not require any Person to publicly disclose such suggestions, recommendations or proposals.

(d) Anything in this Section 5.4 to the contrary notwithstanding, this Section 5.4 shall not prohibit or restrict any activity of the Soros Purchaser in an account under the discretionary investment management of a third-party investment adviser, provided that the

Soros Purchaser does not instruct or advise such third-party investment adviser to act in a manner that would be considered a breach of the terms of this Section 5.4.

5.5 Participation Rights.

(a) At any time prior to the fifth (5th) anniversary of the Closing Date, for so long as a Purchaser (along with its Affiliates) owns at least 50% of the Shares issued to such Purchaser and its Affiliates at the Closing, the Company shall not issue, or agree to issue, any Equity Securities of the Company to any Person unless the Company offers such Purchaser the right (the "**Securities Participation Right**") to purchase in the aggregate up to the number of such Equity Securities of the Company (the "**Securities Participation Amount**") equal to the product of (x) the total number of such offered shares of Equity Securities of the Company multiplied by (y) such Purchaser's Participation Rights Fraction, at the same price per security (payable in cash, except to the extent that the consideration for such issuance is an exchange of Convertible Preferred Stock) and otherwise upon the same terms and conditions as those offered to such Person in accordance with the procedures set forth in this Section 5.5; provided that the Securities Participation Rights shall not be applicable to the issuance of the following Equity Securities of the Company: (i) an underwritten registered public offering of Common Stock for cash (which shall exclude for this purpose any registered direct offering to one or more purchasers (other than to or through brokers, dealers, underwriters or market makers, in each case purchasing for resale to investors) in an aggregate amount greater than the lesser of $5 million and 1% of the shares the Company's Common Stock then outstanding), (ii) an issuance of equity or equity linked securities pursuant to any director, officer or employee compensation arrangements approved by the Board that is permitted, or not prohibited by, the Certificate of Designation, (iii) an issuance of equity to a seller, or in the case of a merger, the shareholders of the target company, and the employees or officers of any target company in connection with a bona fide merger, business combination transaction or acquisition of stock or assets outside of the ordinary course (other than any merger, business combination or acquisition transaction involving a Harbinger Affiliate), (iv) a conversion of shares of one class of capital stock of the Company into shares of another class of capital stock of the Company in accordance with the terms of such securities, (v) a stock split or other subdivision or combination, or a stock dividend made to all holders on a pro rata basis of any Equity Securities of the Company, (vi) an issuance of Equity Securities of the Company that is incidental to and is issued as part of a debt financing from a bank, institutional lender or similar financial institution, (vii) an issuance of Additional Permitted Preferred Stock (as defined in the Certificate of Designation), or (viii) an issuance of preferred stock that is not convertible into Common Stock (or Equity Securities of the Company that are convertible into Common Stock) and non-voting (treating preferred stock that is entitled to elect no more than two directors upon a default resulting from the failure to pay six (6) or more consecutive quarterly dividends as non-voting for this purpose). For purposes of clarity, the parties agree that the issuance of Conversion Shares shall not be subject to the Securities Participation Rights. In no event will any Existing Series A Preferred Stock, Convertible Preferred Stock or Additional Permitted Preferred Stock (or any Common Stock issuable in connection with the conversion of any Existing Series A Preferred Stock, Convertible Preferred Stock or Additional Permitted Preferred Stock) issued in connection with or as a result of accretions to the face amount of, or payments in kind with respect to, any Existing Series A Preferred Stock, Convertible Preferred Stock or Additional Permitted Preferred Stock, Option Securities and Convertible Securities of the Company outstanding on the Closing or otherwise

permitted to be issued, or not prohibited, by the Certificate of Designation or the Existing Certificate of Designation be subject to the Securities Participation Rights.

(b) *Securities Participation Rights Process*.

(i) The Company shall send a written notice (the "**Securities Participation Rights Notice**") to each applicable Purchaser stating the number of Equity Securities of the Company to be offered, a description of the terms of such Equity Securities of the Company if not Common Stock, the price and terms on which it proposes to offer such Equity Securities of the Company (including a description of any non-cash consideration sufficiently detailed to permit a valuation thereof), and a reference to such Purchaser's Securities Participation Rights hereunder.

(ii) Within ten (10) Business Days after the delivery of the Securities Participation Rights Notice, each such Purchaser may elect by written notice to the Company (the "**Securities Exercise Notice**") to purchase such Equity Securities of the Company, at the price and on the terms specified in the Securities Participation fRights Notice (or, if such price includes non-cash consideration, an amount of cash equal to the fair market value of such non-cash consideration, except to the extent that the consideration for such issuance is an exchange of Convertible Preferred Stock), up to such Purchaser's Securities Participation Amount (or, in the event that the offered securities are preferred securities that are not convertible into Common Stock or Equity Securities of the Company that are convertible into Common Stock, up to such Purchaser's Preferred Participation Amount). A Securities Exercise Notice shall constitute a binding agreement of such Purchaser to purchase the amount of Equity Securities of the Company so specified at the price and other terms set forth in the Securities Participation Rights Notice. Assuming delivery of the Securities Participation Rights Notice in accordance with the terms hereof, the failure of any Purchaser to respond within such ten (10) Business Day period shall be deemed a waiver of such Purchaser's rights under this Section 5.5 with respect to the offering described in the applicable Securities Participation Rights Notice. Notwithstanding anything to the contrary herein, at any time prior to the issuance of the Equity Securities of the Company (whether or not a Securities Exercise Notice shall have been delivered), the Company may elect (in its sole discretion), upon written notice to the applicable Purchasers, not to issue such Equity Securities of the Company and rescind, in such event, the applicable Securities Participation Rights Notice without liability to any Person hereunder.

(iii) Subject to the last sentence of this Section 5.5(b)(iii), the Company may offer the Equity Securities of the Company specified in the Securities Participation Rights Notice in excess of the Securities Participation Amount, if any, to any Person or Persons at a price not less than, and on terms no more favorable to such offerees than, those set forth in such Securities Participation Rights Notice, at any time after the Securities Participation Rights Notice is sent but on or before the 90th day after the Securities Participation Rights Notice was sent. In addition, during the period beginning ten (10) Business Days after the Securities Participation Rights Notice was sent and ending on the 90th day after the Securities Participation Rights Notice was sent, the Company may offer any Equity Securities of the Company of the Securities Participation Amount that are not timely elected to be purchased by the applicable Purchasers in accordance herewith to any other Person or Persons, provided that if such Equity Securities of the Company are to be offered at a price less than, or on terms

materially more favorable to such offerees than, those specified in the Securities Participation Rights Notice, the Company shall promptly notify the applicable Purchasers in writing of such modified terms and such Purchasers shall have five (5) Business Days after the receipt of such notice in which to elect to purchase the Securities Participation Amount of such Equity Securities of the Company at the price and on the terms specified in such subsequent notice.

(iv) The closing of the purchase of Equity Securities of the Company by each Purchaser pursuant to this Section 5.5(b) shall occur as promptly as practicable following delivery of the Securities Exercise Notice to the Company by all Purchasers; provided that such closing shall be subject to and shall occur not earlier than the later of (x) concurrently with the closing of the purchase of Equity Securities of the Company by such offeree and (y) ten (10) Business Days after delivery of the Securities Exercise Notice by each Purchaser to the Company. The closing of the purchase of Equity Securities of the Company by the applicable Purchasers pursuant to this Section 5.5(b) shall also be subject to the receipt of any necessary regulatory approvals, the expiration of any required waiting periods and applicable Law.

(v) Notwithstanding anything to the contrary contained in this Agreement, in the event any Purchaser would be required to file any Notification and Report Form pursuant to the HSR Act as a result of the purchase of Equity Securities of the Company by such Purchaser pursuant to this Section 5.5, the closing of such purchase by such Purchaser shall be delayed (in whole, or at the option of such Purchaser, only to the extent necessary to avoid a violation of the HSR Act), until such Purchaser shall have made such filing under the HSR Act and such Purchaser shall have received early termination clearance in respect thereof or the waiting period in connection with such filing under the HSR Act shall have expired. In such circumstances such Purchaser shall use commercially reasonable efforts to make such filing and obtain such clearance or expiration of such waiting period as promptly as reasonably practical and the Company shall use commercially reasonable efforts to make all required filings and reasonably cooperate with and assist such holder in connection with the making of such filing and obtaining such clearance or expiration of such waiting period.

5.6 Hedging Restrictions. Each Purchaser agrees that from Closing until the date that is the earlier of (i) the date such Purchaser ceases to hold any Shares and (ii) the expiration of the Hedging Limitation Period, such Purchaser shall not, and shall cause each of its Affiliates not to, enter into any Hedging Agreement with respect to the Common Stock or the Convertible Preferred Stock or the equity securities of any Subsidiary of the Company that are traded on a national securities exchange. For the avoidance of doubt, following the Hedging Limitation Period, nothing in this Section 5.6 shall prohibit such Purchaser or its Affiliates from entering into any Hedging Agreement with respect to the Common Stock or the Convertible Preferred Stock or the equity securities of any Subsidiary of the Company, including any transactions involving an index-based portfolio of securities that includes Common Stock or the equity securities of any Subsidiary of the Company (regardless of the value of such Common Stock or equity securities of any Subsidiary of the Company in such portfolio relative to the total value of the portfolio of securities) or involving the purchase or sale of derivative securities or any short sale of the Common Stock or the equity securities of any Subsidiary of the Company. Anything in this Section 5.6 to the contrary notwithstanding, this Section 5.6 shall not prohibit or restrict any activity of the Soros Purchaser in an account under the discretionary investment

management of a third-party investment adviser, provided that the Soros Purchaser does not instruct or advise such third-party investment adviser to act in a manner that would be considered a breach of the terms of this Section 5.6.

5.7 Form 8-K. The Company shall, promptly following the date hereof (but in any event within the time period required by the rules and regulations of the SEC), file a Current Report on Form 8-K, disclosing the material terms of the transactions contemplated hereby and filing the Transaction Agreements as exhibits thereto, provided that the Company shall afford the Purchasers with reasonable opportunity to review and comment on such Current Report on Form 8-K prior to the filing thereof. Notwithstanding the foregoing, except as required by Law, court order, subpoena, stock exchange, self-regulatory organization, governmental agency or regulatory body (including pursuant to any rules or regulations of any of the foregoing), the Company, the Company's controlled Affiliates and the Company's Representatives shall not directly or indirectly use or refer to Soros Fund Management LLC ("**SFM**"), the "Soros" name, or any derivation thereof, or the funds advised by SFM, for any purpose whatsoever (including, without limitation, in any filing with any governmental authority, any press release, any public announcement or statement, advertisement or in any interview or other discussion with any reporter or other member of the media) without the prior written consent of SFM with respect to each such use or reference. Notwithstanding the foregoing, except as required by Law, court order, subpoena, stock exchange, self-regulatory organization, governmental agency or regulatory body (including pursuant to any rules or regulations of any of the foregoing), the Company, the Company's controlled Affiliates and the Company's Representatives shall not directly or indirectly use or refer to JHL Capital Group LLC ("**JHL**"), the "JHL" name, or any derivation thereof, or the funds advised by JHL, for any purpose whatsoever (including, without limitation, in any filing with any governmental authority, any press release, any public announcement or statement, advertisement or in any interview or other discussion with any reporter or other member of the media) without the prior written consent of JHL with respect to each such use or reference.

5.8 Tax Characterization. Unless otherwise required by a "determination", as defined in Section 1313(a) of the Code, the parties agree to treat the Convertible Preferred Stock as stock other than preferred stock for U.S. federal, and to the extent applicable, state and local income tax purposes.

5.9 Confidential Information.

(a) Each Purchaser recognizes that Confidential Information may have been and may be disclosed to such Purchaser by the Company or any of its Affiliates. Each Purchaser shall not engage in the unauthorized use, and shall cause its Affiliates not to engage in the unauthorized use, or make any unauthorized disclosure to any third party, of any Confidential Information without the prior written consent of the Company and shall use due care to ensure that such Confidential Information is kept confidential, including by treating such information as such party would treat its own Confidential Information. Notwithstanding the foregoing, the Purchasers shall have the right to share any Confidential Information with any of their Representatives, each of whom shall be required to agree to keep confidential such Confidential Information to the extent required of the Purchaser under this Section 5.9. With respect to each Purchaser, at the Closing, the confidentiality agreement entered into by the Company and such

Purchaser prior to the date hereof shall terminate. As used herein, "**Confidential Information**" means all information, knowledge, systems or data relating to the business, operations, finances, policies, strategies, intentions or inventions of the Company and/or its Subsidiaries (including any of the terms of this Agreement) from whatever source obtained, except for any such information, knowledge, systems or data which (i) has become publicly known and made generally available through no wrongful act of such Purchaser, (ii) has been rightfully received by such Purchaser from a third party who, to the knowledge of such Purchaser, is not bound any obligations of confidentiality with respect to such information, knowledge, systems or data, (iii) is independently developed by such Purchaser without use of Confidential Information, (iv) is already known by a Portfolio Company of such Purchaser or is already in the possession of a Portfolio Company of such Purchaser prior to the date hereof, or (v) subject to the obligations set forth in Section 5.9(b), is required by law, court order, subpoena, stock exchange, self-regulatory organization, governmental agency, or regulatory body to be disclosed.

(b) If any Purchaser is requested to disclose any Confidential Information by any Governmental Entity or for any regulatory reason, such Purchaser will promptly notify the Company, as is reasonably practicable and legally permissible under the circumstances, to permit it to seek a protective order or take other action that the Board in its discretion deems appropriate, and such Purchaser will cooperate in any such efforts to obtain a protective order or other reasonable assurance that confidential treatment will be accorded such Confidential Information, at the Company's sole cost and expense. If, in the absence of a protective order, such Purchaser is compelled to disclose any such information in any proceeding or pursuant to legal process, such Purchaser may disclose to the party compelling disclosure only the part of such Confidential Information as is required to be disclosed (in which case, prior to such disclosure, such Purchaser will advise and, if requested by the Board, consult with the Company and its counsel as to such disclosure and the nature and wording of such disclosure) and such Purchaser will use its commercially reasonable efforts to obtain confidential treatment therefor. Notwithstanding the foregoing, the Purchaser shall not be required to notify the Company if it is required to disclose Confidential Information pursuant to a routine regulatory inquiry or blanket document request, not targeting the Company or the Board.

5.10 Amendment to Certificate of Designation. Each Purchaser hereby consents and agrees to the adoption, execution and filing by the Company of the First Amendment to the Certificate of Designation of Series A Participating Convertible Preferred Stock, attached as Exhibit E (the "**First Amendment to the Certificate of Designation**"), for all purposes of SECTION 4 of the Certificate of Designation.

5.11 Most Favored Nation Status. With respect to the next $45 million of Additional Permitted Preferred Stock issued or sold by the Company, prior to the time when the Purchasers cease to own any shares of Convertible Preferred Stock, the Company shall not (x) sell any such Additional Permitted Preferred Stock with a cash dividend rate, an accreting dividend rate or a combined dividend rate that is higher than the dividend rates applicable to the Convertible Preferred Stock, (y) sell any such Additional Permitted Preferred Stock for a price per share less than $1,000 or (z) pay to any Person that is acquiring such Additional Permitted Preferred Stock any transaction fee or similar fee or compensation in connection therewith other than reimbursement of actual out-of-pocket costs and expenses.

6. Conditions Precedent.

6.1 Conditions to the Obligation of the Purchasers to Consummate the Closing. The obligations of the Purchasers to consummate the transactions to be consummated at the Closing, and to purchase and pay for the Shares pursuant to this Agreement, are subject to the satisfaction of the following conditions precedent:

(a) the Company shall have filed with the Secretary of State of the State of Delaware the Certificate of Designation;

(b) the Purchasers shall have received the Registration Rights Amendment and Joinder, duly executed and delivered by the parties thereto (other than the Purchasers);

(c) the Purchasers shall have received the Tag-Along Agreement, duly executed and delivered by the parties thereto (other than the Purchasers);

(d) the Purchasers shall have received from Paul, Weiss, Rifkind, Wharton & Garrison LLP, counsel to the Company, an opinion substantially in the form attached hereto as Exhibit D;

(e) no Law shall be in effect and no judgment or order shall have been entered, in each case that restrains, enjoins or prohibits the performance of all or any part of this Agreement or the consummation of all or any part of the transactions contemplated hereby, or declares unlawful the transactions contemplated hereby or would cause any of the transactions contemplated hereby to be rescinded; and

(f) since December 31, 2010, there shall not have occurred any Material Adverse Effect.

6.2 Conditions to the Obligation of the Company to Consummate the Closing. The obligation of the Company to consummate the transactions to be consummated at the Closing, and to issue and sell to the Purchasers the Shares pursuant to this Agreement, is subject to the satisfaction of the following conditions precedent:

(a) each Purchaser shall have executed and delivered each Transaction Agreement to which such Purchaser is a party;

(b) the Certificate of Designation shall have been duly filed and accepted by the Secretary of State of the State of Delaware; and

(c) no Law shall be in effect and no judgment or order shall have been entered, in each case that restrains, enjoins or prohibits the performance of all or any part of this Agreement or the consummation of all or any part of the transactions contemplated hereby, or declares unlawful the transactions contemplated hereby or would cause any of the transactions contemplated hereby to be rescinded.

7. Additional Covenants.

7.1 Material Non-Public Information. If any Purchaser has notified the Company in writing that it does not want to receive any material nonpublic information regarding the Company and its Subsidiaries, the Company shall thereafter not disclose material nonpublic information to such Purchaser, or to advisors to or representatives of such Purchaser (in their capacity as such) until such time as such Purchaser may again request in writing to receive such information.

7.2 Information Rights. For so long as a Purchaser and its Affiliates collectively own at least 12,500 Shares (or Common Stock issued upon conversion of such Shares) (as adjusted for any stock splits, combinations, re-classifications or the like), whether or not the Company is required to file any forms, reports or documents with the SEC, the Company shall deliver to each such Purchaser all quarterly and annual financial information that would be required to be contained in a filing with the SEC on Form 10-Q or Form 10-K, as applicable, if the Company were required to file such Form with the SEC and, with respect to the annual information only, a report thereon by the Company's independent registered accountants. Notwithstanding the foregoing, the Company's obligation under this Section 7.2 to deliver the foregoing information shall be deemed to have been satisfied upon the filing of the abovementioned forms, reports and documents with the SEC in accordance with applicable Laws.

8. Transfer Restrictions. Each Purchaser understands and agrees that the Shares and any Conversion Shares may be offered, resold, pledged or otherwise transferred only (a) in a transaction not involving a public offering, (b) pursuant to an exemption from registration under the Securities Act provided by Rule 144 thereunder (if available), (c) pursuant to an effective registration statement under the Securities Act, (d) to the Company or one of its Subsidiaries, (e) to any Affiliate of such Purchaser (provided such Person is an institutional investor) or (f) to any other holder of shares of Convertible Preferred Stock and to any Affiliates thereof (provided such Person is an institutional investor); in each of cases (a) through (e) in accordance with any applicable state and federal securities laws; provided that as a condition precedent to a transfer of any Shares or Conversion Shares to an Affiliate of a Purchaser pursuant to clause (e), any such Affiliate shall assume, on a several and not joint basis, all then continuing obligations of such Purchaser hereunder pursuant to a written agreement reasonably acceptable to the Company. Any purported transfer of Shares or Conversion Shares other than in compliance with the terms hereof shall be void ab initio.

9. Legends; Securities Act Compliance.

(a) Each certificate representing the Shares and each certificate representing Conversion Shares will bear a legend conspicuously thereon to the following effect:

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAWS AND MAY NOT BE OFFERED, SOLD, TRANSFERRED, PLEDGED, HYPOTHECATED OR OTHERWISE DISPOSED OF UNLESS THE

SAME ARE REGISTERED AND QUALIFIED IN ACCORDANCE WITH THE SAID ACT AND ANY OTHER APPLICABLE STATE SECURITIES LAWS OR SUCH OFFER, SALE, TRANSFER OR OTHER DISPOSITION IS EXEMPT FROM REGISTRATION UNDER SUCH ACT AND ANY OTHER APPLICABLE STATE SECURITIES LAWS."

(b) Removal of Legends. The legend set forth above will be removed and the Company shall issue a certificate representing Conversion Shares without such legend to the holder of such certificate or issue to such holder by electronic delivery at the applicable balance account at The Depository Trust Company ("**DTC**"), if (i) such Conversion Shares are registered for resale under the Securities Act, (ii) such Conversion Shares are sold or transferred pursuant to Rule 144 (assuming the transferor is not an Affiliate of the Company) or Rule 144A, or (iii) such Conversion Shares are eligible for sale under Rule 144 without regard to the volume, notice, manner of sale or current public information requirements of Rule 144. The Company shall cause its counsel to issue a legal opinion to the Company's transfer agent on the effective date of a Shelf Registration Statement (as such term is defined in the Registration Rights Agreement) to cover any removal of legend pursuant to clause (i) of this Section 9(b) and the transferor shall provide to the Company an opinion of counsel to cover any removal of legend pursuant to clauses (ii) and (iii) of this Section 9(b). For further clarity, if any portion of the Shares are converted at a time when there is an effective Shelf Registration Statement to cover the resale of the Conversion Shares under clause (i) of this Section 9(b), or if such Conversion Shares may be sold under Rule 144 under clause (iii) of this Section 9(b), then such Conversion Shares shall be issued free of all legends. Following the effective date of a Shelf Registration Statement, or at such earlier time as a legend is no longer required for Shares or Conversion Shares, the Company will no later than three (3) Business Days following the delivery by a Purchaser to the Company or the transfer agent (with notice to the Company) of (i) a legended certificate representing such Shares or Conversion Shares (endorsed or with stock powers attached, signatures guaranteed, and otherwise in form necessary to affect the reissuance and/or transfer) or (ii) a conversion notice in the manner stated in Section 5 of the Certificate of Designation to effect the conversion of such Shares in accordance with its terms and an opinion of counsel to the extent required, deliver or cause to be delivered to such Purchaser a certificate representing such Conversion Shares that is free from all restrictive and other legends. The Company may not make any notation on its records or give instructions to the transfer agent that enlarge the restrictions on transfer set forth in this Section 9(b).

10. Indemnification; Survival.

10.1 Company Indemnification. The Company shall defend, indemnify, exonerate and hold free and harmless each Purchaser and its Affiliates and their respective directors, officers and employees (each, a "**Purchaser Indemnified Party**" and, collectively, the "**Purchaser Indemnified Parties**") from and against any and all Losses actually incurred by such Indemnified Parties that arise out of, or result from: (i) any inaccuracy in or breach of the Company's representations or warranties in this Agreement or (ii) the Company's breach of its agreements or covenants in this Agreement.

10.2 Survival of Representations and Warranties. The representations and warranties contained herein shall survive until 5:00 p.m. EDT on the fifteen (15) month anniversary of the Closing, other than the representations and warranties set forth in Sections 3.1, 3.2, 3.3, 3.4 and 3.26, which shall survive indefinitely (the "**Survival Period**"). For the avoidance of doubt, all other covenants, agreements and obligations contained in this Agreement shall survive indefinitely (unless a different period is specifically provided for pursuant to the provisions of this Agreement expressly relating thereto).

10.3 Purchaser Indemnification. Each Purchaser, severally and not jointly, shall defend, indemnify, exonerate and hold free and harmless the Company and its Affiliates and their respective directors, officers and employees (each a "**Company Indemnified Party**" and collectively, the "**Company Indemnified Parties**") from and against any and all Losses actually incurred by such Company Indemnified Parties that arise out of, or result from: (i) any inaccuracy in or breach of such Purchaser's representations or warranties in this Agreement or (ii) such Purchaser's breach of its agreements or covenants in this Agreement.

10.4 Limitations. Notwithstanding anything in this Agreement to the contrary, (i) no indemnification claims for Losses shall be asserted by the Purchaser Indemnified Parties under Section 10.1 or by the Company Indemnified Parties under Section 10.3 unless and until (x) the aggregate amount of Losses that would otherwise be payable under Section 10.1 or Section 10.3, as applicable, exceeds $2,000,000 (the "**Basket Amount**"), whereupon the Purchaser Indemnified Party or Company Indemnified Party, as applicable, shall be entitled to receive only amounts for Losses in excess of the Basket Amount or (y) Losses have been asserted against such Person in accordance with this Section 10.4, and (ii) the aggregate liability of the Company or any Purchaser for Losses under Section 10.1 or Section 10.3, as applicable, shall in no event exceed the applicable Share Purchase Price.

10.5 Procedures. A party entitled to indemnification hereunder (each, an "**Indemnified Party**") shall give written notice to the party from whom indemnification is sought (the "**Indemnifying Party**") of any claim with respect to which it seeks indemnification promptly after the discovery by such Indemnified Party of any matters giving rise to a claim for indemnification hereunder; provided, that the failure of any Indemnified Party to give notice as provided herein shall not relieve the Indemnifying Party of its obligations under this Section 10 unless and to the extent that the Indemnifying Party shall have been materially prejudiced by the failure of such Indemnified Party to so notify such party. Such notice shall describe in reasonable detail such claim. In case any such action, suit, claim or proceeding is brought against an Indemnified Party, the Indemnifying Party shall be entitled to assume and conduct the defense thereof, with counsel reasonably satisfactory to the Indemnified Party unless (i) such claim seeks remedies, in addition to or other than, monetary damages that are reasonably likely to be awarded, (ii) such claim involves a criminal proceeding or (iii) counsel to the Indemnified Party advises such Indemnifying Party in writing that such claim involves a conflict of interest that would reasonably be expected to make it inappropriate for the same counsel to represent both the Indemnifying Party and the Indemnified Party. If any one of the foregoing clauses (i) through (iii) applies, the Indemnified Party shall be entitled to retain its own counsel at the cost and expense of the Indemnifying Party (except that the Indemnifying Party shall only be liable for the legal fees and expenses of one law firm for all Indemnified Parties, taken together with respect to any single action or group of related actions, other than local counsel). If the

Indemnifying Party assumes the defense of any claim, the Indemnified Party shall nevertheless be entitled to hire, at its own expense, separate counsel and participate in the defense thereof; provided, that all Indemnified Parties shall thereafter deliver to the Indemnifying Party copies of all notices and documents (including court papers) received by the Indemnified Party relating to the claim, and each Indemnified Party shall reasonably cooperate in the defense or prosecution of such claim. Such reasonable cooperation shall include the retention and (upon the Indemnifying Party's reasonable request) the provision to the Indemnifying Party of records and information that are reasonably relevant to such claim, and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. The Indemnifying Party shall not be liable for any settlement of any action, suit, claim or proceeding effected without its prior written consent (not to be unreasonably withheld, conditioned or delayed). The Indemnifying Party further agrees that it will not, without the Indemnified Party's prior written consent (which shall not be unreasonably withheld, conditioned or delayed), settle or compromise any claim or consent to entry of any judgment in respect thereof in any pending or threatened action, suit, claim or proceeding in respect of which indemnification has been sought or may be hereunder unless such settlement or compromise includes an unconditional release of such Indemnified Party from all liability arising out of such action, suit, claim or proceeding and is solely for monetary damages.

10.6 Additional Limitations. Notwithstanding anything contained herein to the contrary, "Losses" shall not include (i) any Losses to the extent such Losses could not have been reasonably foreseen by the parties as of the Closing, and (ii) punitive damages, except to the extent payable by an Indemnified Party to a third party. No party hereto shall be obligated to indemnify any other Person with respect to any representation, warranty, covenant or condition specifically waived in writing by any other party on or prior to the Closing.

10.7 Exclusive Remedies. Notwithstanding anything to the contrary herein, the provisions of Section 10 and Section 12.6 shall be the sole and exclusive remedies of parties under this Agreement following the Closing for any and all breaches or alleged breaches of any representations or warranties, covenants or agreements of the parties contained in this Agreement. For the avoidance of doubt, this Section 10 shall not prevent the parties from obtaining specific performance or other non-monetary remedies at in equity or at Law pursuant to Section 12.6 of this Agreement and shall not limit other remedies that may be available to the parties under any of the Transaction Agreements (other than this Agreement).

11. Termination.

11.1 Conditions of Termination. Notwithstanding anything to the contrary contained herein, this Agreement may be terminated at any time before the Closing by either the Company, on the one hand, or any Purchaser, on the other hand, if the Closing shall not have occurred on or prior to 5:00 p.m., New York time, on August 5, 2011.

11.2 Effect of Termination. In the event of any termination pursuant to Section 11.1 hereof, this Agreement shall become null and void and have no further effect, with no liability on the part of the Company or any Purchaser, or their directors, partners, members, employees, affiliates, officers, stockholders or agents or other representatives, with respect to this Agreement, except (a) for the terms of this Section 11.2 and Section 12 (Miscellaneous

Provisions), which shall survive the termination of this Agreement, and (b) that nothing in this Section 11 shall relieve any party or parties hereto, as applicable, from liability or damages incurred or suffered by any other party resulting from any intentional (x) breach of any representation or warranty of such first party or (y) failure of such first party to perform a covenant thereof. As used in the foregoing sentence, "intentional" shall mean an act or omission by such party which such party actually knew, or reasonably should have known, would constitute a breach of this Agreement by such party.

12. Miscellaneous Provisions.

12.1 Public Statements or Releases. Neither the Company nor any Purchaser shall make any public release or announcement with respect to the existence or terms of this Agreement or the transactions provided for herein without the prior approval of the other parties, which shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, nothing in this Section 12.1 shall prevent any party from making any public release required (in the exercise of its reasonable judgment) in order to satisfy its obligations under law or under the rules or regulations of any United States national securities exchange, in which case the party or parties, as applicable, required to make the release or announcement shall, to the extent reasonably practicable, allow the other party or parties, as applicable, reasonable time to comment on such release or announcement in advance of such issuance.

12.2 Interpretation. The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement will refer to this Agreement as a whole and not to any particular provision of this Agreement, and section and subsection references are to this Agreement unless otherwise specified. The headings in this Agreement are included for convenience of reference only and will not limit or otherwise affect the meaning or interpretation of this Agreement. Whenever the words "include," "includes" or "including" are used in this Agreement, they will be deemed to be followed by the words "without limitation." The phrases "the date of this Agreement," "the date hereof" and terms of similar import, unless the context otherwise requires, will be deemed to refer to the date set forth in the first paragraph of this Agreement. The meanings given to terms defined herein will be equally applicable to both the singular and plural forms of such terms. All matters to be agreed to by any party hereto must be agreed to in writing by such party unless otherwise indicated herein. Except as specified otherwise herein, references to agreements, policies, standards, guidelines or instruments, or to statutes or regulations, are to such agreements, policies, standards, guidelines or instruments, or statutes or regulations, as amended or supplemented from time to time (or to successors thereto). All references herein to the Subsidiaries of a Person shall be deemed to include all direct and indirect Subsidiaries of such Person, unless otherwise indicated or the context otherwise requires. The parties hereto agree that they have been represented by counsel during the negotiation and execution of the Transaction Agreements and, therefore, waive the application of any Law, holding or rule of construction providing that ambiguities in an agreement or other document will be construed against the party drafting such agreement or document.

12.3 Notices. All notices, requests, consents, and other communications under this Agreement shall be in writing and shall be deemed delivered (a) three (3) Business Days after being sent by registered or certified mail, return receipt requested, postage prepaid (b) one (1) Business Day after being sent via a reputable nationwide overnight courier service

guaranteeing next business day delivery, (c) on the date of delivery if delivered personally, or (d) if by facsimile, upon written confirmation of receipt by facsimile, in each case to the intended recipient as set forth below:

(a) if to the Company, addressed as follows:

Harbinger Group Inc.
450 Park Avenue
27th Floor
New York, New York 10022
Attention: Francis T. McCarron
Facsimile: (212) 906-8559

with copies (which shall not constitute notice) to:

Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, New York 10019
Attention: Jeffrey D. Marell and Kelley D. Parker
Facsimile: (212) 757-3990

(b) if to the Soros Purchaser, to:

Quantum Partners LP
c/o Soros Fund Management LLC
888 Seventh Avenue
New York, New York 10106
Attention: Maryann Canfield
Facsimile: (646) 731-5551

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

Soros Fund Management LLC
888 Seventh Avenue
New York, New York 10106
Attention: Alex Shapiro
Facsimile: (646) 731-5802

(c) if to a DDJ Purchaser (as applicable), to:

DDJ High Yield Fund
c/o DDJ Capital Management, LLC
130 Turner Street, Building 3, Suite 600
Waltham, MA 02453
Attention: Legal Department
Facsimile: (781) 283-8541

General Motors Hourly-Rate Employes Pension Trust – 7N1H
c/o DDJ Capital Management, LLC
130 Turner Street, Building 3, Suite 600
Waltham, MA 02453
Attention: Legal Department
Facsimile: (781) 283-8541

General Motors Salaried Employes Pension Trust – 7N1I
c/o DDJ Capital Management, LLC
130 Turner Street, Building 3, Suite 600
Waltham, MA 02453
Attention: Legal Department
Facsimile: (781) 283-8541

Stichting Pensioenfonds Hoogovens
c/o DDJ Capital Management, LLC
130 Turner Street, Building 3, Suite 600
Waltham, MA 02453
Attention: Legal Department
Facsimile: (781) 283-8541

Caterpillar Inc. Master Retirement Trust
c/o DDJ Capital Management, LLC
130 Turner Street, Building 3, Suite 600
Waltham, MA 02453
Attention: Legal Department
Facsimile: (781) 283-8541

J.C. Penney Corporation, Inc. Pension Plan Trust
c/o DDJ Capital Management, LLC
130 Turner Street, Building 3, Suite 600
Waltham, MA 02453
Attention: Legal Department
Facsimile: (781) 283-8541

Stichting Bewaarder Interpolis Pensioenen Global High Yield Pool
c/o DDJ Capital Management, LLC
130 Turner Street, Building 3, Suite 600
Waltham, MA 02453
Attention: Legal Department
Facsimile: (781) 283-8541

Stichting Pensioenfond voor Fysiotherapeuten
c/o DDJ Capital Management, LLC
130 Turner Street, Building 3, Suite 600
Waltham, MA 02453
Attention: Legal Department
Facsimile: (781) 283-8541

Houston Municipal Employees Pension System
c/o DDJ Capital Management, LLC
130 Turner Street, Building 3, Suite 600
Waltham, MA 02453
Attention: Legal Department
Facsimile: (781) 283-8541

UAW Retiree Medical Benefits Trust
c/o DDJ Capital Management, LLC
130 Turner Street, Building 3, Suite 600
Waltham, MA 02453
Attention: Legal Department
Facsimile: (781) 283-8541

DDJ Distressed and Special Situations Fund, L.P.
c/o DDJ Capital Management, LLC
130 Turner Street, Building 3, Suite 600
Waltham, MA 02453
Attention: Legal Department
Facsimile: (781) 283-8541

Russell Investment Company - Russell Global Opportunistic Credit Fund
c/o DDJ Capital Management, LLC
130 Turner Street, Building 3, Suite 600
Waltham, MA 02453
Attention: Legal Department
Facsimile: (781) 283-8541

DDJ Capital Management Group Trust – High Yield Investment Fund
c/o DDJ Capital Management, LLC
130 Turner Street, Building 3, Suite 600
Waltham, MA 02453
Attention: Legal Department
Facsimile: (781) 283-8541

(d) if to the JHL Purchaser, to:

JHL Capital Group Master Fund L.P.
c/o JHL Capital Group LLC
900 N. Michigan Avenue
Suite 1340
Chicago, IL 60611
Attention: David Weiss
Facsimile: (312) 628-7351

Any party may change the address to which notices, requests, consents or other communications hereunder are to be delivered by giving the other parties notice in the manner set forth in this Section 12.3.

12.4 Severability. In the event that any provision of this Agreement, or the application thereof, becomes or is declared by a court of competent jurisdiction to be illegal, void or unenforceable, the remainder of this Agreement will continue in full force and effect and the application of such provision to other persons or circumstances will be interpreted so as reasonably to effect the intent of the parties hereto. The parties further agree to replace such void or unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purposes of such void or unenforceable provision.

12.5 Governing Law; Jurisdiction; WAIVER OF JURY TRIAL.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of New York, regardless of the laws that might otherwise govern under applicable principles of conflicts of law thereof.

(b) Each of the parties hereto irrevocably (i) agrees that any legal suit, action or proceeding brought by any party hereto against arising out of or based upon this Agreement may be instituted in any United States federal court or New York State court located in the Borough of Manhattan in The City of New York (a "**New York Court**"), (ii) waives, to the fullest extent it may effectively do so, any objection which it may now or hereafter have to the laying of venue of any such proceeding and (iii) submits to the non-exclusive jurisdiction of a New York Court in any such suit, action or proceeding.

(c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF ANY PURCHASER OR THE COMPANY IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT HEREOF.

12.6 Specific Performance. The parties hereto agree that the obligations imposed on them in this Agreement are special, unique and of an extraordinary character, and that irreparable damages for which money damages, even if available, would not be an adequate remedy, would occur in the event that the parties hereto do not perform the provisions of this Agreement in accordance with its specified terms or otherwise breach such provisions. The parties acknowledge and agree that the parties shall be entitled to seek an injunction, specific performance and other equitable relief to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof, this being in addition to any other remedy to which they are entitled, at law or in equity; and the parties hereto further agree to waive any requirement for the securing or posting of any bond or other security in connection with the obtaining of any such injunctive or other equitable relief. Each of the parties agrees that it will not oppose the granting of an injunction, specific performance and other equitable relief as provided herein on the basis that (x) either party has an adequate remedy at

law or (y) an award of specific performance is not an appropriate remedy for any reason at law or equity.

12.7 Delays or Omissions; Waiver. No delay or omission to exercise any right, power, or remedy accruing to a party upon any breach or default of another party under this Agreement shall impair any such right, power, or remedy of such party, nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. No waiver of any term, provision or condition of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be, or be construed as, a further or continuing waiver of any such term, provision or condition or as a waiver of any other term, provision or condition of this Agreement. Any agreement on the part of a party or parties hereto to any waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party or parties, as applicable. Any delay in exercising any right under this Agreement shall not constitute a waiver of such right.

12.8 Fees; Expenses.

(a) Except as set forth in this Section 12.8, all fees and expenses incurred in connection with the Transaction Agreements and the transactions contemplated hereby and thereby shall be paid by the party or parties, as applicable, incurring such expenses whether or not the transactions contemplated hereby and thereby are consummated.

(b) The Company shall pay any and all documentary, stamp or similar issue or transfer Tax payable in connection with this Agreement, the issuance of the Shares at Closing and the issuance of the Conversion Shares.

(c) Each party shall pay for any filing fees associated with any filings made by it to the Insurance Regulatory Authorities.

12.9 Assignment. None of the parties may assign its rights or obligations under this Agreement without the prior written consent of the other parties, provided, however, that each Purchaser may assign its right and obligations hereunder to an Affiliate of such Purchaser without the prior written consent of the Company or any other Purchaser; provided, further, that as a condition precedent to such assignment (x) any such Affiliate shall assume, on a several and not joint basis, all then continuing obligations of such Purchaser hereunder pursuant to a written agreement reasonably acceptable to the Company, and (y) no assignment and assumption shall relieve such Purchaser from any liability hereunder; provided, further, that any assignment to an Affiliate shall only be effective for so long as such Person remains an Affiliate of the applicable Purchaser and the rights assigned to such Person shall cease to be of further force and effect when such Person ceases to be an Affiliate of the applicable Purchaser. Subject to the preceding sentence, this Agreement shall be binding upon, inure to the benefit of and be enforceable by the parties to this Agreement and their respective successors and permitted assigns. Any purported assignment other than in compliance with the terms hereof shall be void ab initio.

12.10 No Third Party Beneficiaries. Except for Section 10 (with respect to which all Indemnified Parties shall be third party beneficiaries), this Agreement does not create any rights, claims or benefits inuring to any Person that is not a party hereto nor create or establish any third party beneficiary hereto. Without limiting the foregoing, the representations and warranties in this Agreement are the product of negotiations among the parties hereto and are for the sole benefit of the parties hereto. In some instances, the representations and warranties in this Agreement may represent an allocation among the parties hereto of risks associated with particular matters regardless of the knowledge of any of the parties hereto. Consequently, Persons other than the parties hereto may not rely upon the representations and warranties in this Agreement as characterizations of actual facts or circumstances as of the date of this Agreement or as of any other date.

12.11 Counterparts. This Agreement may be executed and delivered (including by facsimile or electronic transmission) in any number of counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed an original, but all of which taken together shall constitute a single instrument.

12.12 Entire Agreement; Amendments. This Agreement and the documents and instruments and other agreements among the parties hereto as contemplated by or referred to herein, including the Disclosure Letter and the Annexes and Exhibits hereto, constitute the entire agreement between the parties hereto respecting the subject matter hereof and supersede all prior agreements, negotiations, understandings, representations and statements respecting the subject matter hereof, whether written or oral. No modification, alteration, waiver or change in any of the terms of this Agreement shall be valid or binding upon the parties hereto unless made in writing and duly executed by the Company, on the one hand, and the Purchasers holding a majority of the Shares issued at the Closing (whether held in the form of Convertible Preferred Stock or Common Stock issued upon the conversion of Convertible Preferred Stock), on the other hand; provided, however, that any modification, alteration, waiver or change that (a) has a disproportionate and adverse effect on any right of any Purchaser under this Agreement, (b) increases any restriction or imposes any additional restriction upon any Purchaser or any successor or assigns thereof with respect to the Shares acquired by such Purchaser at Closing or with respect to any Common Stock acquired upon conversion thereof or otherwise or (c) increases in any respect the obligations or liabilities of any Purchaser under this Agreement shall not be effective against such Purchaser without the written approval of such Purchaser; provided, further, no modification, alteration, waiver or change with respect to Section 5.4 (Standstill) or 5.6 (Hedging Restrictions) for the benefit of any Purchaser shall be effective unless such modification, alteration, waiver or change is made equally applicable to all Purchasers; provided, further, that with respect to the rights and obligations of any Purchaser under Sections 2 (Authorization, Purchase and Sale of Shares), 5.4 (Standstill), 5.5 (Participation Rights), 5.6 (Hedging Restrictions), 5.10 (Confidentiality), 5.11 (Most Favored Nation Status), 6.1 (Conditions to the Obligation of the Purchasers to Consummate Closing), 7.1 (Material Non-Public Information), 7.2 (Information Rights), 11 (Termination), and 12.13 (Freedom to Pursue Opportunities) such provisions may be amended with respect to the rights and obligations of such Purchaser by written instrument duly executed by the Company, on the one hand, and such Purchaser, on the other hand; provided, further, that Sections 3 (Representations and Warranties of the Company), 4 (Representations and Warranties of the Purchasers), 5.2 (Shares Issuable Upon Conversion), 5.8 (Tax Characterization), 10 (Indemnification; Survival) and this 12.12

shall not be modified, altered, waived or changed unless made in writing and duly executed by each of the parties hereto.

12.13 Freedom to Pursue Opportunities. Each of the parties hereto expressly acknowledges and agrees that: (i) each Purchaser has the right to, and shall have no duty (contractual or otherwise) not to, directly or indirectly engage in the same or similar business activities or lines of business as the Company or any of its Subsidiaries, including those deemed to be competing with the Company or any of its Subsidiaries; and (ii) in the event that a Purchaser acquires knowledge of a potential transaction or matter that may be a corporate opportunity for each of the Company and such Purchaser, such Person shall have no duty (contractual or otherwise) to communicate or present such corporate opportunity to the Company or any of its Subsidiaries, as the case may be, and, notwithstanding any provision of this Agreement to the contrary, shall not be liable to the Company or its Affiliates for breach of any duty (contractual or otherwise) by reason of the fact that such Purchaser, directly or indirectly, pursues or acquires such opportunity for itself, directs such opportunity to another Person, or does not present such opportunity to the Company.

12.14 No Person Liability of Directors, Officers, Owners, Etc. No director, officer, employee, incorporator, shareholder, managing member, member, general partner, limited partner, principal or other agent of any of the Purchasers or the Company shall have any liability for any obligations of the Purchasers or the Company, as applicable, under this Agreement or for any claim based on, in respect of, or by reason of, the respective obligations of the Purchasers or the Company, as applicable, under this Agreement. Each party hereby waives and releases all such liability. This waiver and release is a material inducement to each party's entry into this Agreement.

12.15 Nature of Purchasers' Obligations and Rights. The obligations of each Purchaser under this Agreement or any Transaction Agreement are several and not joint with the obligations of any other Purchaser, and no Purchaser shall be responsible in any way for the performance of the obligations of any other Purchaser under this Agreement or any other Transaction Agreement. Nothing contained herein or in any other Transaction Agreement, and no action taken by any Purchaser pursuant hereto or thereto, shall be deemed to constitute the Purchasers as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Purchasers are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by this Agreement or any other Transaction Agreement. Each Purchaser confirms that it has independently participated in the negotiation of the transactions contemplated hereby and has been represented by separate counsel. All rights, powers and remedies provided to the Purchasers under this Agreement or otherwise available in respect hereof at law or in equity shall be cumulative and not alternative or exclusive, and the exercise or beginning of the exercise of any thereof by any party shall not preclude the simultaneous or later exercise of any other rights, powers or remedies by such party or any other party.

[*Remainder of the Page Intentionally Left Blank*]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COMPANY:

HARBINGER GROUP INC.

By: _____

Name:
Title:

[*SIGNATURE PAGE TO SECURITIES PURCHASE AGREEMENT*]

QUANTUM PARTNERS LP

By: _____
Name:
Title:

[*SIGNATURE PAGE TO SECURITIES PURCHASE AGREEMENT*]

JHL CAPITAL GROUP MASTER FUND L.P.

By: _____
Name:
Title:

[*SIGNATURE PAGE TO SECURITIES PURCHASE AGREEMENT*]

Caterpillar Inc. Master Retirement Trust
By: DDJ Capital Management, LLC, on behalf of Caterpillar Inc. Master Retirement Trust, in its capacity as investment manager

By: _____
Name:
Title:

DDJ Capital Management Group Trust – High Yield Investment Fund
By: DDJ Capital Management, LLC, in its capacity as Investment Manager

By: _____
Name: David J. Breazzano
Title: President

DDJ High Yield Fund
By: DDJ Capital Management, LLC, its attorney-in-fact

By: _____
Name:
Title:

General Motors Hourly-Rate Employes Pension Trust – 7N1H
By: State Street Bank and Trust Company, solely in its capacity as Trustee for General Motors Hourly-Rate Employes Pension Trust (Account 7N1H), and not in its individual capacity, as directed by DDJ Capital Management, LLC, as Investment Manager

By: _____
Name:
Title:

General Motors Salaried Employes Pension Trust – 7N1I
By: State Street Bank and Trust Company, solely in its capacity as Trustee for General Motors Salaried Employes Pension Trust (Account 7N1I), and not in its individual capacity, as directed by DDJ Capital Management, LLC, as Investment Manager

By: _____
Name:
Title:

Houston Municipal Employees Pension System
By: DDJ Capital Management, LLC, in its capacity as Manager

By: _____
Name:
Title:

J.C. Penney Corporation, Inc. Pension Plan Trust
By: DDJ Capital Management, LLC, on behalf of J.C. Penney Corporation, Inc. Pension Plan Trust, in its capacity as investment manager

By: _____
Name:
Title:

Russell Investment Company - Russell Global Opportunistic Credit Fund
By: DDJ Capital Management, LLC, in its capacity as Money Manager

By: _____
Name:
Title:

Stichting Bewaarder Interpolis Pensioenen Global High Yield Pool
By: Syntrus Achmea Asset Management, as asset manager
By: DDJ Capital Management, LLC, as subadviser

By: _____
Name:
Title:

Stichting Pensioenfonds Hoogovens
By: DDJ Capital Management, LLC, on behalf of Stichting Pensioenfonds Hoogovens, in its capacity as Manager

By: _____
Name:
Title:

Stichting Pensioenfonds voor Fysiotherapeuten
By: DDJ Capital Management, LLC, in its capacity as investment manager

By: _____
Name:
Title:

UAW Retiree Medical Benefits Trust
By: State Street Bank and Trust Company, solely in its capacity as Trustee for UAW Retiree Medical Benefits Trust, as directed by DDJ Capital Management, LLC, and not in its individual capacity

By: _____
Name:
Title:

DDJ Distressed and Special Situations Fund, L.P.
By: DDJ/GP Distressed and Special Situations, LLC, its General Partner
By: DDJ Capital Management, LLC, Manager

By: _____
Name:
Title:

[*SIGNATURE PAGE TO SECURITIES PURCHASE AGREEMENT*]

Annex A

Shares and Purchasers

Purchaser	Shares	Share Purchase Price
Quantum Partners LP	25,000	$25,000,000.00
DDJ High Yield Fund	250	$250,000.00
General Motors Hourly-Rate Employes Pension Trust – 7N1H	3,750	$3,750,000.00
General Motors Salaried Employes Pension Trust – 7N1I	2,000	$2,000,000.00
Stichting Pensioenfonds Hoogovens	1,250	$1,250,000.00
Caterpillar Inc. Master Retirement Trust	2,500	$2,500,000.00
J.C. Penney Corporation, Inc. Pension Plan Trust	3,000	$3,000,000.00
Stichting Bewaarder Interpolis Pensioenen Global High Yield Pool	3,250	$3,250,000.00
Stichting Pensioenfonds voor Fysiotherapeuten	1,000	$1,000,000.00
Houston Municipal Employees Pension System	1,000	$1,000,000.00
UAW Retiree Medical Benefits Trust	3,750	$3,750,000.00
DDJ Distressed and Special Situations Fund, L.P.	1,000	$1,000,000.00
Russell Investment Company - Russell Global Opportunistic Credit Fund	2,000	$2,000,000.00
DDJ Capital Management Group Trust - High Yield Investment Fund	250	$250,000.00
JHL Capital Group Master Fund L.P.	25,000	$25,000,000.00
TOTAL:	75,000	$75,000,000.00

Exhibit A

Form of Certificate of Designation

[see attached]

Exhibit B

Form of Registration Rights Amendment and Joinder

[see attached]

Exhibit C

Form of Tag-Along Agreement

[see attached]

Exhibit D

Form of Legal Opinion

[see attached]

Exhibit E

Form of Amendment to Certificate of Designation

[see attached]

Exhibit 10.2

First Amendment
to
Securities Purchase Agreement

This First Amendment (this "Amendment") to the Purchase Agreement (as defined below), is entered into as of August __, 2011, by and among Harbinger Group Inc., Delaware corporation (the "Company"), Quantum Partners LP (the "Soros Purchaser"), DDJ High Yield Fund, an entity organized under the laws of the Province of Ontario, Canada, General Motors Hourly-Rate Employes Pension Trust – 7N1H, a trust maintained by General Motors Corporation, a Delaware corporation, General Motors Salaried Employes Pension Trust – 7N1I, a trust maintained by General Motors Corporation, Stichting Pensioenfonds Hoogovens, a Dutch pension plan regulated by the Dutch Central Bank, Caterpillar Inc. Master Retirement Trust, a trust maintained by Caterpillar, Inc., a Delaware corporation, J.C. Penney Corporation, Inc. Pension Plan Trust, a trust maintained by J.C. Penney Corporation, Inc., a Delaware corporation, Stichting Bewaarder Interpolis Pensioenen Global High Yield Pool, a Dutch tax transparent pool of assets, Stichting Pensioenfonds voor Fysiotherapeuten, a Dutch pension plan regulated by the Dutch Central Bank, Houston Municipal Employees Pension System, a pension plan organized pursuant to Texas government code, UAW Retiree Medical Benefits Trust, a trust consisting of three separate employees' beneficiary associations, DDJ Distressed and Special Situations Fund, L.P., a Delaware limited partnership, Russell Investment Company - Russell Global Opportunistic Credit Fund, a Massachusetts business trust, DDJ Capital Management Group Trust - High Yield Investment Fund, a trust maintained by The Bank of New York Mellon, a New York State chartered bank, as trustee (collectively, the "DDJ Purchasers"), JHL Capital Group Master Fund L.P. (the "JHL Purchaser"), Luxor Capital Partners, LP, a Delaware limited partnership, Luxor Wavefront, LP, a Delaware limited partnership, Luxor Capital Partners Offshore Fund, LP, aCayman Islands limited partnership, OC 19 Master Fund, L.P. - LCG, a Cayman Islands limited partnership, and GAM Equity Six Inc., a British Virgin Islands company (collectively, the "Luxor Purchasers"). Capitalized terms used in this Amendment and not otherwise defined herein shall have the meanings ascribed to them in the Purchase Agreement.

WHEREAS, the parties hereto (other than the Luxor Purchasers) entered into that certain Securities Purchase Agreement, dated as of August 1, 2011 (the "Purchase Agreement"); and

WHEREAS, in order for the Luxor Purchasers to be joined as Purchasers under the Purchase Agreement, the parties hereto wish to amend certain provisions of the Purchase Agreement and agree that all other terms and conditions of the Purchase Agreement otherwise remain unchanged except as expressly set forth herein.

NOW THEREFORE, the Purchase Agreement is amended as follows:

1. The third recital in the Purchase Agreement is hereby amended and restated in their entirety as follows:

WHEREAS, the Company has authorized the issuance and sale of 120,000 shares of Series A-2 Participating Convertible Preferred Stock, par value $0.01 per share, of the Company (the "**Convertible Preferred Stock**"), the rights,

preferences and privileges of which are to be set forth in a Certificate of Designation, in the form attached hereto as Exhibit A (the "**Certificate of Designation**"), which shares of Convertible Preferred Stock shall be convertible into authorized but unissued shares of Common Stock (as defined below);

2. The following definitions set forth in Section 1 of the Purchase Agreement are hereby amended and restated in their entirety as follows:

"**Purchasers**" means, collectively, the Soros Purchaser, the DDJ Purchasers, the JHL Purchaser and the Luxor Purchasers.

3. Section 1 of the Purchase Agreement is hereby amended to add the following definition:

"Luxor Purchasers" shall mean, collectively, Luxor Capital Partners, LP, a Delaware limited partnership, Luxor Wavefront, LP, a Delaware limited partnership, Luxor Capital Partners Offshore Fund, LP, aCayman Islands limited partnership, OC 19 Master Fund, L.P. - LCG, a Cayman Islands limited partnership, and GAM Equity Six Inc., a British Virgin Islands company.

4. New subsection (e) is hereby added to Section 12.3 of the Purchase Agreement as follows:

(e) if to the Luxor Purchasers, to:

Luxor Capital Group, LP
1114 Avenue of the Americas, 29th Floor
New York, NY 10036
Attn: Operations Group
Fax: (212) 763-8001

5. Annex A of the Purchase Agreement is hereby amended and restated in its entirety as set forth on Exhibit A hereto.

6. Each of the Luxor Purchasers agrees that upon execution of this Amendment, such Luxor Purchaser shall become a party to the Purchase Agreement and shall be fully bound by, and subject to, all of the repsresentations, warranties, covenants, terms and conditions of the Purchase Agreement as though an original party thereto and shall be deemed a Purchaser for all purposes thereof and entitled to all the rights incidental thereto.

7. Except as expressly amended herein, all provisions of the Purchase Agreement shall remain in full force and effect.

8. This Amendment shall be governed by and construed in accordance with the laws of the State of New York, regardless of the laws that might otherwise govern under applicable principles of conflicts of law thereof.

9. This Amendment may be signed in any number of counterparts each of which shall be an original and all of which shall together constitute one and the same agreement. Any counterpart or other signature hereupon delivered by facsimile shall be deemed for all purposes as constituting good and valid execution and delivery of this Amendment by such party.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first above written.

COMPANY:

HARBINGER GROUP INC.

By: _____
Name:
Title:

[Signature Page to First Amendment to the Purchase Agreement]

QUANTUM PARTNERS LP

By: _____
Name:
Title:

[Signature Page to First Amendment to the Purchase Agreement]

JHL CAPITAL GROUP MASTER FUND L.P.

By: _____
Name:
Title:

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Caterpillar Inc. Master Retirement Trust
By: DDJ Capital Management, LLC, on behalf of Caterpillar Inc. Master Retirement Trust, in its capacity as investment manager

By: _____
Name:
Title:

DDJ Capital Management Group Trust – High Yield Investment Fund
By: DDJ Capital Management, LLC, in its capacity as Investment Manager

By: _____
Name: David J. Breazzano
Title: President

DDJ High Yield Fund
By: DDJ Capital Management, LLC, its attorney-in-fact

By: _____
Name:
Title:

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General Motors Hourly-Rate Employes Pension Trust – 7N1H
By: State Street Bank and Trust Company, solely in its capacity as Trustee for General Motors Hourly-Rate Employes Pension Trust (Account 7N1H), and not in its individual capacity, as directed by DDJ Capital Management, LLC, as Investment Manager

By: _____
Name:
Title:

General Motors Salaried Employes Pension Trust – 7N1I
By: State Street Bank and Trust Company, solely in its capacity as Trustee for General Motors Salaried Employes Pension Trust (Account 7N1I), and not in its individual capacity, as directed by DDJ Capital Management, LLC, as Investment Manager

By: _____
Name:
Title:

Houston Municipal Employees Pension System
By: DDJ Capital Management, LLC, in its capacity as Manager

By: _____
Name:
Title:

J.C. Penney Corporation, Inc. Pension Plan Trust
By: DDJ Capital Management, LLC, on behalf of J.C. Penney Corporation, Inc. Pension Plan Trust, in its capacity as investment manager

By: _____
Name:
Title:

Russell Investment Company - Russell Global Opportunistic Credit Fund
By: DDJ Capital Management, LLC, in its capacity as Money Manager

By: _____
Name:
Title:

Stichting Bewaarder Interpolis Pensioenen Global High Yield Pool
By: Syntrus Achmea Asset Management, as asset manager
By: DDJ Capital Management, LLC, as subadviser

By: _____
Name:
Title:

Stichting Pensioenfonds Hoogovens
By: DDJ Capital Management, LLC, on behalf of Stichting Pensioenfonds Hoogovens, in its capacity as Manager

By: _____
Name:
Title:

Stichting Pensioenfonds voor Fysiotherapeuten
By: DDJ Capital Management, LLC, in its capacity as investment manager

By: _____
Name:
Title:

UAW Retiree Medical Benefits Trust
By: State Street Bank and Trust company, solely in its capacity as Trustee for UAW Retiree Medical Benefits Trust, as directed by DDJ Capital Management, LLC, and not in its individual capacity

By: _____
Name:
Title:

DDJ Distressed and Special Situations Fund, L.P.
By: DDJ/GP Distressed and Special Situations, LLC, its General Partner
By: DDJ Capital Management, LLC, Manager

By: _____
Name:
Title:

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LUXOR CAPITAL PARTNERS, LP

By: _____
Name:
Title:

LUXOR CAPITAL PARTNERS OFFSHORE MASTER FUND, LP

By: _____
Name:
Title:

LUXOR WAVEFRONT, LP

By: _____
Name:
Title:

GAM EQUITY SIX INC.

By: _____
Name:
Title:

OC 19 MASTER FUND, L.P. – LCG

By: _____
Name:
Title:

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Exhibit A

Annex A

Shares and Purchasers

Purchaser	Shares	Share Purchase Price
Luxor Capital Partners, LP	14,384	$14,384,000.00
Luxor Capital Partners Offshore Master Fund, LP	22,263	$22,263,000.00
Luxor Wavefront, LP	5,159	$5,159,000.00
OC 19 Master Fund, LP	1,603	$1,603,000.00
GAM Equity Six, Inc.	1,591	$1,591,000.00
Quantum Partners LP	25,000	$25,000,000.00
DDJ High Yield Fund	250	$250,000.00
General Motors Hourly-Rate Employes Pension Trust – 7N1H	3,750	$3,750,000.00
General Motors Salaried Employes Pension Trust – 7N1I	2,000	$2,000,000.00
Stichting Pensioenfonds Hoogovens	1,250	$1,250,000.00
Caterpillar Inc. Master Retirement Trust	2,500	$2,500,000.00

Purchaser	Shares	Share Purchase Price
J.C. Penney Corporation, Inc. Pension Plan Trust	**3,000**	**$3,000,000.00**
Stichting Bewaarder Interpolis Pensioenen Global High Yield Pool	**3,250**	**$3,250,000.00**
Stichting Pensioenfonds voor Fysiotherapeuten	**1,000**	**$1,000,000.00**
Houston Municipal Employees Pension System	**1,000**	**$1,000,000.00**
UAW Retiree Medical Benefits Trust	**3,750**	**$3,750,000.00**
DDJ Distressed and Special Situations Fund, L.P.	**1,000**	**$1,000,000.00**
Russell Investment Company - Russell Global Opportunistic Credit Fund	**2,000**	**$2,000,000.00**
DDJ Capital Management Group Trust - High Yield Investment Fund	**250**	**$250,000.00**
JHL Capital Group Master Fund L.P.	**25,000**	**$25,000,000.00**
TOTAL:	**120,000**	**$120,000,000.00**