

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

FORM 10-K

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the fiscal year ended: December 28, 2012

or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
Commission File Number: 001-14543

**TrueBlue, Inc.**

(Exact name of Registrant as specified in its charter)

**Washington**  
(State of Incorporation)

**91-1287341**  
(IRS Employer ID)

**1015 A Street, Tacoma, Washington**  
(Address of principal executive offices)

**98402**  
(Zip Code)

Registrant's telephone number, including area code: **(253) 383-9101**

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

Title of each class  
**Common Stock without par value**

Name of each exchange on which registered  
**The New York Stock Exchange**

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

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

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

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

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. Large accelerated filer  Accelerated filer  Non-accelerated filer  (Do not check if a smaller reporting company) Smaller reporting company

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

The aggregate market value (based on the NYSE quoted closing price) of the common stock held by non-affiliates of the registrant as of the last business day of the second fiscal quarter, June 29, 2012, was approximately \$0.611 billion.

As of February 8, 2013, there were 40,609,618 shares of the registrant's common stock outstanding.

## **DOCUMENTS INCORPORATED BY REFERENCE**

The information required by Part III of this report is incorporated by reference from the registrant's definitive proxy statement relating to the Annual Meeting of Shareholders scheduled to be held May 15, 2013, which definitive proxy statement will be filed not later than 120 days after the end of the fiscal year to which this report relates.

## **COMMENT ON FORWARD LOOKING STATEMENTS**

This Form 10-K contains forward-looking statements. These statements relate to our expectations for future events and future financial performance. Generally, the words "anticipate," "believe," "expect," "intend," "plan," and similar expressions identify forward-looking statements. Forward-looking statements involve risks and uncertainties, and future events and circumstances could differ significantly from those anticipated in the forward-looking statements. These statements are only predictions. Actual events or results may differ materially. Factors which could affect our financial results are described in Item 1A of this Form 10-K. Readers are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date hereof. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. Moreover, neither we nor any other person assume responsibility for the accuracy and completeness of the forward-looking statements. We undertake no duty to update any of the forward-looking statements after the date of this report to conform such statements to actual results or to changes in our expectations.

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**TrueBlue, Inc.**  
**2012 Annual Report on Form 10-K**  
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**TrueBlue, Inc.**  
**Form 10-K**  
**PART I**

**Item 1. BUSINESS**

TrueBlue, Inc. (“TrueBlue,” “we,” “us,” “our”) is a leading provider of temporary blue-collar staffing services. We provide a wide range of specialized blue-collar staffing services. We operate as Labor Ready for general labor, Spartan Staffing for light industrial services, CLP Resources for skilled trades, PlaneTechs for mechanics and technicians for the aviation and transportation industries, and Centerline Drivers for dedicated and temporary drivers. We have a network of 691 branches in all 50 states, Puerto Rico and Canada, customer on-site locations generally dedicated to one customer, and national service centers, which supply our customers with temporary workers.

We began operations in 1989 under the name Labor Ready, Inc. providing on-demand, general labor staffing services. We became a public company in 1995. In 2004 we began acquiring additional brands to expand our service offerings to customers in the blue-collar staffing market. Effective December 18, 2007, Labor Ready, Inc. changed its name to TrueBlue, Inc. We are headquartered in Tacoma, Washington.

**Temporary Staffing Industry**

The temporary staffing industry supplies temporary staffing services to minimize the cost and effort of hiring and administering permanent employees in order to rapidly respond to changes in business conditions, to temporarily replace absent employees, to temporarily fill new positions, and to convert fixed or permanent labor costs to variable or flexible costs. Temporary staffing companies act as intermediaries in matching available temporary workers to employer assignments. The demand for a flexible workforce continues to grow with competitive and economic pressures to reduce costs and respond to changing market conditions.

The temporary staffing industry is large and highly fragmented with many competing companies. No single company has a dominant share of the temporary staffing industry. Staffing companies compete both to recruit and retain a supply of temporary workers and to attract and retain customers to employ these workers. Customer demand for temporary staffing services is dependent on the overall strength of the labor market and trends toward greater workforce flexibility. The temporary staffing industry includes a number of markets focusing on business needs that vary widely in duration of assignment and level of technical specialization. We operate within the blue-collar staffing market of the temporary staffing industry.

The blue-collar staffing market is subject to volatility based on overall economic conditions. Historically, in periods of economic growth, the number of companies providing temporary staffing services has increased due to low barriers to entry and during recessionary periods the number of companies has decreased through consolidation, bankruptcies, or other events. The temporary staffing industry is experiencing increased demand in relation to total job growth as customers have placed a greater priority on maintaining a more flexible workforce.

**Long-term Strategies**

Our long term strategies are clearly focused on creating shareholder value. Creating differentiated services, developing transformational competitive advantages, and increasing the efficiency of our service delivery model are underlying strategic principles that guide our strategies.

Our primary strategic focus is creating specialization in the services we offer. Our customers have a variety of challenges in running their business, many of which are unique to the industry in which they operate. Our objective is to be the leading provider of blue-collar staffing by providing specialized service offerings which will improve the productivity and performance of our customers. We believe that specialization differentiates us from our competition and ensures we deliver industry specific solutions tailored to the specific needs of our customers. We have and continue to invest in building industry expertise in various blue collar markets. Those investments have strengthened our ability to provide compelling workforce solutions for our customers. We have also built our sales and service capabilities for national customers while maintaining our core strength of selling and servicing small to mid-sized businesses at the local level. Our specialization substantially improves our ability to provide quality solutions that customers value.

We believe technology can transform traditional methods of doing business in our industry. We are investing in mobile texting solutions which will drive substantial productivity gains in a variety of ways. We believe mobile solutions will increase the number and quality of potential workers as candidates are increasingly looking for efficient and convenient ways to connect with work

opportunities. We expect it will reduce the amount of time it takes our branches to match and assign temporary workers to jobs; particularly for hard-fill-jobs and large short-notice orders. We believe revenues will increase from new business and from fewer unfilled orders in our current business. Also, we believe the geographic reach of our branches will increase and provide the opportunity to reduce occupancy costs by consolidating local branches.

As we consolidate our branch network, we plan to centralize certain recruiting, placement, and customer service duties in major metropolitan areas. Historically, our branches are staffed by generalist positions performing a variety of sales and service activities. We plan to centralize and specialize selected sales and service activities to further improve the productivity and quality of our service.

Acquisitions continue to be a key growth strategy. We have completed a variety of acquisitions in the past and believe we have developed a strong set of competencies in assessing, valuing, and integrating acquisitions. We are excited about the future of the temporary staffing industry and believe we can continue to create shareholder value through acquisitions.

## **Operations**

We provide a wide range of specialized blue-collar staffing services. We operate as Labor Ready for on-demand general labor, Spartan Staffing for skilled manufacturing and logistics labor, CLP Resources for skilled trades for commercial, industrial and energy construction as well as building and plant maintenance, PlaneTechs for skilled mechanics and technicians to the aviation and transportation industries, and, Centerline Drivers for temporary and dedicated drivers to the transportation and distribution industries. Our operations are all in the blue-collar staffing market of the temporary staffing industry. All our brands:

- Provide blue-collar temporary labor services to our customers;
- Serve customers who have a need for temporary staff to perform blue-collar tasks which do not require a permanent employee;
- Build a temporary workforce through recruiting, screening and hiring. Temporary workers are dispatched to customers where they work under the supervision of our customers;
- Drive profitability by managing the bill rates to our customers and the pay rates to our workers. Profitable growth requires increased volume and or bill rates which grow faster than pay rates and leveraging our cost structure; and
- Use innovative technology to improve our ability to recruit quality workers, effectively match workers to the needs of our customers, and meet our customers' needs more efficiently. We are focused on improving the ease of doing business with us for both our temporary workers and customers.

Our long-term financial performance expectations of all our brands are similar as are the underlying financial and economic metrics used to manage those brands. Profitable growth is driven by leveraging our cost structure across all brands to achieve economies of scale and investing in technology that improves our productivity.

Our business is generally conducted through a broad network of local branch locations, customer on-site locations generally dedicated to one customer and national service centers. We have a growing capability to service remote customer needs and work sites where we have no physical location. Management of our temporary staffing operations is coordinated from our headquarters in Tacoma, Washington where we provide support and centralized services to our brands and network of offices.

## **Customers**

Our customer mix consists primarily of small and medium-sized businesses serviced by one or more branch offices. We also serve larger national customers. Our full range of blue-collar temporary staffing services enables us to meet all of the blue-collar staffing needs of our customers.

Methods used to sell temporary staffing services to customers vary depending on the customer's need for temporary staffing services, the local labor supply, the length of assignment, the number of workers and skills required. We are a business-to-business sales provider. Our sales process takes place at the customer's location. Success is often based on the experience and skill of the sales person and the strength of relationship with the customer. Retention of customers, exclusive of economic conditions, is dependent on the strength of our relationship with the customer, the skill, quality and tenure of temporary workers, and customer service skills.

During 2012, we served approximately 140,000 customers in the services, retail, wholesale, manufacturing, transportation, aviation, and construction industries. Our ten largest customers accounted for 22% of total revenue for 2012, 19% for 2011 and 19% for 2010. Sales to our largest customer accounted for 7% of total revenue for 2012, 8% for 2011 and 9% for 2010.

### ***Employees and Temporary Associates***

As of December 28, 2012 we employed approximately 2,900 full-time and part-time employees. In addition, we placed approximately 350,000 temporary workers on assignments with our customers during 2012. We recruit temporary workers daily so that we can be responsive to the planned as well as unplanned needs of the customers we serve. We attract our pool of temporary workers through personal referrals, online resources, extensive internal databases, advertising, job fairs, and various other methods. We identify the skills, knowledge, abilities, and personal characteristics of a temporary worker and match their competencies or capabilities to a customer's requirements. This enables our customers to obtain immediate value by placing a highly productive and skilled employee on the job site. We use a variety of proprietary programs for identifying and assessing the skill level of our temporary workers when selecting a particular individual for a specific assignment and retaining those workers for future assignments. We believe that our assessment systems enable us to offer a higher quality of service by increasing productivity, decreasing turnover, and reducing absenteeism.

We provide a bridge to permanent, full-time employment for thousands of temporary workers each year. Temporary workers come to us to fill a short-term financial need, or as a flexible source of income while also working elsewhere or pursuing education. Many stay because of the flexibility that we offer. In many cases, we enable individuals to pay their rent, buy groceries, and remain self-sufficient. Temporary workers may be assigned to different jobs and job sites, and their assignments could last for as little as a single day or extend for several weeks or months. We provide our temporary workers meaningful work and the opportunity to improve their skills.

Our risk management practices have increased the safety of the work environment for our temporary workers. We have increased the involvement of our customers and temporary workers in our safety program. We have a variety of safety-related programs, provide safety information to temporary employees, and conduct job-site visits to increase the safety of employees while working for our customers.

We are considered the legal employer of our temporary workers and laws regulating the employment relationship are applicable to our operations. We consider our relations with our employees and temporary workers to be good.

### ***Competition***

We compete in the temporary staffing industry by offering a full range of blue-collar staffing services. The temporary staffing industry is large and fragmented, comprised of thousands of companies employing millions of people and generating billions of dollars in annual revenues.

We experience competition in attracting customers as well as qualified employment candidates. The staffing business is highly competitive with limited barriers to entry, with a number of firms offering services similar to those provided by us on a national, regional, or local basis. We compete with several multi-national full-service and specialized temporary staffing companies, as well as a multitude of local companies. In most geographic areas, no single company has a dominant share of the market. The majority of temporary staffing companies serving the blue-collar staffing market are locally-owned businesses. In many areas the local companies are the strongest competitors, largely due to their longevity in the market and the strength of their customer relationships.

Competitive forces have historically limited our ability to raise our prices to immediately and fully offset increased costs of doing business; some of which include increased temporary worker wages, costs for workers' compensation, and unemployment insurance.

The most significant competitive factors in the staffing business are price, ability to promptly fill customer orders, success in meeting customers' quality expectations of temporary workers, and appropriately addressing customer service issues. We believe we derive a competitive advantage from our service history and commitment to the blue-collar temporary employment market and our specialized approach in serving the industries of our customers. Also, our national presence and proprietary systems and programs including worker safety, risk management, and legal and regulatory compliance are key differentiators from many of our competitors.

### ***Seasonality and Cyclical Nature of our Business***

Our business experiences seasonal fluctuations. Our quarterly operating results are affected by the seasonality of our customers' businesses. Demand for our staffing services is higher during the second and third quarters of the year and peaks in the third quarter. Demand is lower during the first and fourth quarters, in part due to limitations to outside work during the winter months. Our working capital requirements are primarily driven by temporary worker payroll and customer accounts receivable. Since receipts from customers lag payroll to temporary workers, working capital requirements increase substantially in periods of growth.

The staffing industry has historically been cyclical, often acting as an indicator of both economic downturns and upswings. Staffing customers tend to use temporary staffing to supplement their existing workforces and generally hire permanent workers when long-term demand is expected to increase. As a consequence, our revenues tend to increase quickly when the economy begins to grow and, conversely, our revenues also decrease quickly when the economy begins to weaken. While we have longer-term customer relationships, which are not directly dependent upon the economic cycle, these revenues are not significant enough to offset the impact of cyclical economic activity for our temporary staffing services.

#### Financial Information about Geographic Areas

The following table depicts our revenue earned from within the United States and from international operations for the past three fiscal years *(in millions, except percentages)*.

	2012		2011		2010	
United States (including Puerto Rico)	\$ 1,341.5	96.5%	\$ 1,266.3	96.2%	\$ 1,105.5	96.2%
International operations (Canada)	48.0	3.5%	49.7	3.8%	43.9	3.8%
Total revenue from services	<u>\$ 1,389.5</u>	<u>100.0%</u>	<u>\$ 1,316.0</u>	<u>100.0%</u>	<u>\$ 1,149.4</u>	<u>100.0%</u>

The international operations are dependent on shared information and communications equipment housed and maintained in the United States. Net property and equipment located in international operations was less than 1% of total property and equipment in each of the last three fiscal years.

#### Available Information

Our Annual Report on Form 10-K, along with all other reports and amendments filed with or furnished to the Securities and Exchange Commission (“SEC”) are publicly available, free of charge, on our website at [www.trueblue.com](http://www.trueblue.com) or at [www.sec.gov](http://www.sec.gov) as soon as reasonably practicable after such reports are filed with or furnished to the SEC. Our Corporate Governance Guidelines, Code of Business Conduct and Ethics, and Board Committee Charters are also posted to our website. The information on our website is not part of this or any other report we file with, or furnish to, the SEC.

**Item 1A. RISK FACTORS**

*Investing in our securities involves risk. The following risk factors and all other information set forth in this Annual Report on Form 10-K should be considered in evaluating our future prospects. In particular, keep these risk factors in mind when you read “forward-looking” statements elsewhere in this report. Forward-looking statements relate to our expectations for future events and time periods. Generally, the words “anticipate,” “believe,” “expect,” “intend,” “plan” and similar expressions identify forward-looking statements. Forward-looking statements involve risks and uncertainties, and future events and circumstances could differ significantly from those anticipated in the forward-looking statements. If any of the events described below occurs, our business, financial condition, results of operations, liquidity or access to the capital markets could be materially and adversely affected.*

***Our business is significantly affected by fluctuations in general economic conditions.***

The demand for our blue-collar staffing services is highly dependent upon the state of the economy and upon staffing needs of our customers. As economic activity slows, companies tend to reduce their use of temporary employees before terminating their regular employees. Significant declines in demand and corresponding revenues, can result in expense de-leveraging, which would result in lower profit levels. Any variation in the economic condition or unemployment levels of the United States, Puerto Rico and Canada or in the economic condition of any region or specific industry in which we have a significant presence may severely reduce the demand for our services and thereby significantly decrease our revenues and profits.

***Our business is subject to extensive government regulation and a failure to comply with regulations could materially harm our business.***

Our business is subject to extensive regulation. The cost to comply, and any inability to comply, with government regulation could materially harm our business. Increased government regulation of the workplace or of the employer-employee relationship, or judicial or administrative proceedings related to such regulation, could materially harm our business.

The Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 (collectively, the “Health Care Reform Laws”) include various health-related provisions to take effect through 2014, including requiring most individuals to have health insurance and establishing new regulations on health plans. Although the Health Care Reform Laws do not mandate that employers offer health insurance, beginning in 2014 tax penalties will be assessed on large employers who do not offer health insurance that meets certain affordability or benefit requirements. Unless modified by regulations or subsequent legislation, providing such additional health insurance benefits to our temporary workers, or the payment of tax penalties if such coverage is not provided, will increase our costs. If we are unable to raise the rates we charge our customers to cover these costs, such increases in costs could materially harm our business.

***We may incur employment related and other claims that could materially harm our business.***

We employ individuals on a temporary basis and place them in our customers' workplaces. We have minimal control over our customers' workplace environments. As the employer of record of our temporary workers, we incur a risk of liability for various workplace events, including claims for personal injury, wage and hour violations, discrimination or harassment, and other actions or inactions of our temporary workers. In addition, some or all of these claims may give rise to litigation including class action litigation. A material adverse impact on our financial statements also could occur for the period in which the effect of an unfavorable final outcome becomes probable and can be reasonably estimated.

We cannot be certain that our insurance will be sufficient in amount or scope to cover all claims that may be asserted against us. Should the ultimate judgments or settlements exceed our insurance coverage, they could have a material effect on our business. We cannot be certain we will be able to obtain appropriate types or levels of insurance in the future, that adequate replacement policies will be available on acceptable terms or that the companies from which we have obtained insurance will be able to pay claims we make under such policies.

***We are dependent on workers' compensation insurance coverage at commercially reasonable terms.***

We provide workers' compensation insurance for our temporary workers. Our workers' compensation insurance policies are renewed annually. The majority of our insurance policies are with AIG, formerly known as Chartis. Our insurance carriers require us to collateralize a significant portion of our workers' compensation obligation. The majority of collateral is held in trust by a third party for the payment of these claims. The loss or decline in value of the collateral could require us to seek additional sources of capital to pay our workers' compensation claims. We cannot be certain we will be able to obtain appropriate types or levels of insurance in the future or that adequate replacement policies will be available on acceptable terms. As our business grows or our financial results deteriorate, the amount of collateral required will likely increase and the timing of providing collateral could be accelerated. Resources to meet these requirements may not be available. The loss of our workers' compensation insurance coverage



would prevent us from doing business in the majority of our markets. Further, we cannot be certain that our current and former insurance carriers will be able to pay claims we make under such policies.

***Our liquidity may be materially adversely affected by constraints in the capital markets.***

The principal sources of our liquidity are funds generated from operating activities, available cash and cash equivalents, and borrowings under our credit facility. We must have sufficient sources of liquidity to fund our working capital requirements, workers' compensation collateral requirements, service our outstanding indebtedness, and finance investment opportunities. Without sufficient liquidity, we could be forced to curtail our operations or we may not be able to pursue promising business opportunities.

Our failure to comply with the restrictive covenants under our revolving credit facility could result in an event of default, which, if not cured or waived, could result in our being required to repay these borrowings before their due date. If we are forced to refinance these borrowings on less favorable terms, or are unable to refinance at all, our results of operations and financial condition could be adversely affected by increased costs and rates.

***Acquisitions and new business ventures may have an adverse effect on our business.***

We expect to continue making acquisitions and entering into new business ventures or initiatives as part of our long-term business strategy. These acquisitions, new business ventures, and initiatives involve significant challenges and risks, including that they may not advance our business strategy, that we may not realize a satisfactory return on our investment, that we may experience difficulty in integrating operations, or diversion of management's attention from our other business. These events could cause harm to our operating results or financial condition.

***We operate in a highly competitive business and may be unable to retain customers or market share.***

The staffing services business is highly competitive and the barriers to entry are low. There are new competitors entering the market which may increase pricing pressures. In addition, long-term contracts form only a small portion of our revenue. Therefore, there can be no assurance that we will be able to retain customers or market share in the future. Nor can there be any assurance that we will, in light of competitive pressures, be able to remain profitable or, if profitable, maintain our current profit margins.

***Our management information systems are vulnerable to damage and interruption.***

The efficient operation of our business is dependent on our management information systems. We rely heavily on proprietary management information systems to manage our order entry, order fulfillment, pricing and collections, as well as temporary worker recruitment, dispatch and payment. Our management information systems, mobile device technology and related services, and other technology may not yield the intended results. Our systems may experience problems with functionality and associated delays. The failure of our systems to perform as we anticipate could disrupt our business and could result in decreased revenue and increased overhead costs, causing our business and results of operations to suffer materially. Our primary computer systems and operations are vulnerable to damage or interruption from power outages, computer and telecommunications failures, computer viruses, security breaches, catastrophic events and errors in usage by our employees. Failure of our systems to perform may require significant additional capital and management resources to resolve, causing material harm to our business.

***Our results of operations could materially deteriorate if we fail to attract, develop and retain qualified employees.***

Our performance is dependent on attracting and retaining qualified employees who are able to meet the needs of our customers. We believe our competitive advantage is providing unique solutions for each individual customer, which requires us to have highly trained and engaged employees. Our success depends upon our ability to attract, develop and retain a sufficient number of qualified employees, including management, sales, recruiting, service and administrative personnel. The turnover rate in the staffing industry is high, and qualified individuals of the requisite caliber and number needed to fill these positions may be in short supply. Our inability to recruit a sufficient number of qualified individuals may delay or affect the speed of our planned growth or strategy change. Delayed expansion, significant increases in employee turnover rates or significant increases in labor costs could have a material adverse effect on our business, financial condition and results of operations.

***We may be unable to attract and retain sufficient qualified temporary workers.***

We compete with other temporary staffing companies to meet our customer needs and we must continually attract qualified temporary workers to fill positions. Attracting and retaining some skilled temporary employees depends on factors such as desirability of the assignment, location, and the associated wages and other benefits. We have in the past experienced worker shortages and we may experience such shortages in the future. Further, if there is a shortage of temporary workers, the cost to employ these individuals could increase. If we are unable to pass those costs through to our customers, it could materially and adversely affect our business.

***We may have additional tax liabilities that exceed our estimates.***

We are subject to federal taxes and a multitude of state and local taxes in the United States and taxes in foreign jurisdictions. In the ordinary course of our business, there are transactions and calculations where the ultimate tax determination is uncertain. We are regularly subject to audit by tax authorities. Although we believe our tax estimates are reasonable, the final determination of tax audits and any related litigation could be materially different from our historical tax provisions and accruals. The results of an audit or litigation could materially harm our business.

***Accidental disclosure of our employees' or customers' information could materially harm our business.***

Failure to protect the integrity and security of our employees' and customers' information, including proprietary information, could expose us to litigation and materially damage our relationship with our employees and our customers. Further, data privacy is subject to frequently changing rules and regulations, which sometimes conflict among the various jurisdictions. Our failure to adhere to or successfully implement changes in response to the changing regulatory requirements could result in legal liability, additional compliance costs, and damage to our reputation.

***Failure to maintain adequate financial and management processes and controls could lead to errors in our financial reporting.***

Failure to maintain adequate financial and management processes and controls could lead to errors in our financial reporting. If our management is unable to certify the effectiveness of our internal controls or if our independent registered public accounting firm cannot render an opinion on the effectiveness of our internal control over financial reporting, or if material weaknesses in our internal controls are identified, we could be subject to regulatory scrutiny and a loss of public confidence. In addition, if we do not maintain adequate financial and management personnel, processes and controls, we may not be able to accurately report our financial performance on a timely basis, which could cause our stock price to fall.

***Outsourcing certain aspects of our business could result in disruption and increased costs.***

We have outsourced certain aspects of our business to third party vendors that subject us to risks, including disruptions in our business and increased costs. For example, we have engaged third parties to host and manage certain aspects of our data center information and technology infrastructure and to provide certain back office support activities. Accordingly, we are subject to the risks associated with the vendor's ability to provide these services to meet our needs. If the cost of these services is more than expected, or if the vendor or we are unable to adequately protect our data and information is lost, or our ability to deliver our services is interrupted, then our business and results of operations may be negatively impacted.

**Item 1B. UNRESOLVED STAFF  
COMMENTS**

None.

**Item 2. PROPERTIES**

We lease the building space at all of our branch offices except for two that we own in Florida. Under the majority of these leases, both parties have the right to terminate the lease on 90 days notice. We own an office building in Tacoma, Washington, which serves as our headquarters. Management believes all of our facilities are currently suitable for their intended use.

**Item 3. LEGAL  
PROCEEDINGS**

See discussion of legal contingencies and developments in Note 7 to the consolidated financial statements included in Part II, Item 8 of this Annual Report on Form 10-K.

**Item 4. MINE SAFETY  
DISCLOSURES**

None.

**PART II****Item 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES****Market Information**

Our common stock is listed on the New York Stock Exchange under the ticker symbol TBI. The table below sets forth the high and low sales prices for our common stock as reported by the New York Stock Exchange during the last two fiscal years:

	<b>High</b>	<b>Low</b>
December 28, 2012		
Fourth Quarter	\$ 16.51	\$ 11.84
Third Quarter	\$ 17.40	\$ 14.18
Second Quarter	\$ 18.22	\$ 13.59
First Quarter	\$ 18.13	\$ 14.17
December 30, 2011		
Fourth Quarter	\$ 14.69	\$ 10.40
Third Quarter	\$ 16.43	\$ 10.80
Second Quarter	\$ 17.58	\$ 12.84
First Quarter	\$ 19.25	\$ 14.68

**Holders of the Corporation's Capital Stock**

We had approximately 561 shareholders of record as of February 8, 2013.

**Dividends**

No cash dividends have been declared on our common stock to date nor have any decisions been made to pay a dividend in the future. Payment of dividends is evaluated on a periodic basis and if a dividend were paid, it would be subject to the covenants of our lending facility, which may have the effect of restricting our ability to pay dividends.

**Stock Repurchases**

Under our authorized stock repurchase programs, we repurchased and retired 0.3 million shares of our common stock during 2012 for a total amount of \$4.4 million, including commissions. In July 2011, our Board of Directors approved a program to repurchase \$75 million of our outstanding common stock. As of December 28, 2012, \$35.2 million remained available for repurchase of common stock under the current authorization, which has no expiration date. We repurchased and retired 4.5 million shares of our common stock during 2011 for a total amount of \$56.9 million including commissions.

The table below includes repurchases of our common stock pursuant to publicly announced plans or programs and those not made pursuant to publicly announced plans or programs during the thirteen weeks ended December 28, 2012.

Period	Total number of shares purchased (1)	Weighted average price paid per share (2)	Total number of shares purchased as part of publicly announced plans or programs	Maximum number of shares (or approximate dollar value) that may yet be purchased under plans or programs at period end (3)
9/29/12 through 10/26/12	842	\$15.86	—	\$35.2 million
10/27/12 through 11/23/12	1,756	\$13.70	—	\$35.2 million
11/24/12 through 12/28/12	2,880	\$14.60	—	\$35.2 million
Total	5,478	\$14.50	—	

(1) During the thirteen weeks ended December 28, 2012, we purchased 5,478 shares in order to satisfy employee tax withholding obligations upon the vesting of restricted stock. These shares were not acquired pursuant to any publicly announced purchase plan or program.

(2) Weighted average price paid per share does not include any adjustments for commissions.

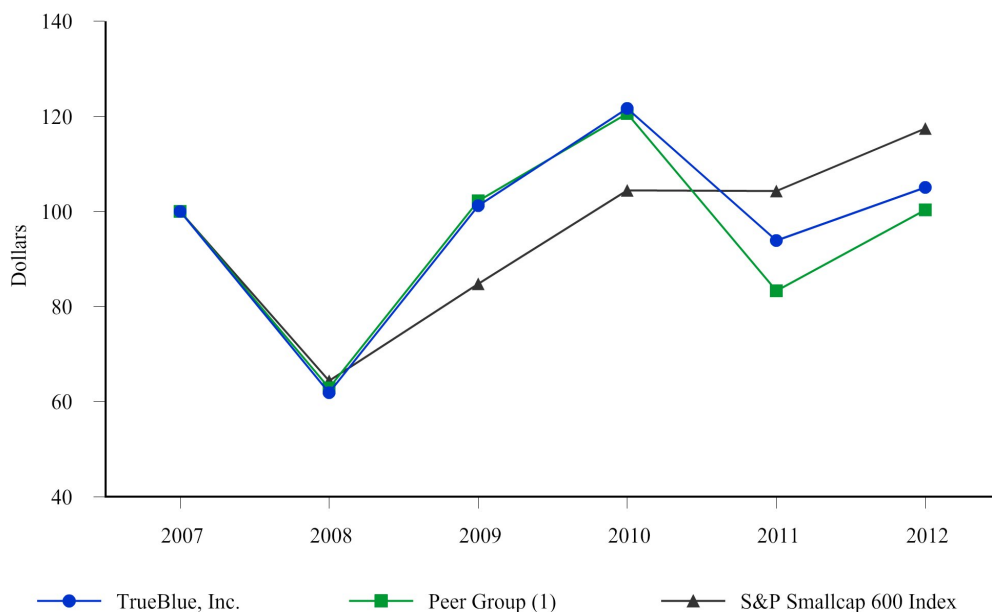
(3) Our Board of Directors authorized a \$75 million share repurchase program in July 2011 that does not have an expiration date. As of December 28, 2012, \$35.2 million remains available for repurchase of our common stock under the current authorization.

**TrueBlue Stock Comparative Performance Graph**

The following graph depicts our stock price performance from December 28, 2007 through December 28, 2012, relative to the performance of the S&P Smallcap 600 Index, and a peer group of companies in the temporary staffing industry. All indices shown in the graph have been reset to a base of 100 as of December 28, 2007, and assume an investment of \$100 on that date and the reinvestment of dividends, if any, paid since that date.

**COMPARISON OF 5-YEAR CUMULATIVE TOTAL RETURN  
Among TrueBlue, Inc., the S&P Smallcap 600 Index  
and Selected Peer Group**

**TOTAL RETURN TO SHAREHOLDERS  
(assumes \$100 investment on 12/28/2007)**



<b>Total Return Analysis</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
TrueBlue, Inc.	\$ 100	\$ 62	\$ 101	\$ 122	\$ 94	\$ 105
Peer Group (1)	\$ 100	\$ 63	\$ 102	\$ 121	\$ 83	\$ 100
S&P Smallcap 600 Index (2)	\$ 100	\$ 64	\$ 85	\$ 104	\$ 104	\$ 117

(1) The peer group includes Kelly Services, Inc., Manpower, Inc., Robert Half International, Adecco SA and Randstad.

(2) In 2012 we selected the S&P Smallcap 600 Index as an index comparison due to our market capitalization being more in line with this index as opposed to the using the S&P Midcap 400 Index. The S&P Midcap 400 Index had a 2012 total return of \$116 based on an assumed \$100 investment on 12/28/2007.

**Item 6. SELECTED FINANCIAL DATA**

The following selected consolidated financial information has been derived from our audited Consolidated Financial Statements. The data should be read in conjunction with item 1A “Risk Factors”, Item 7 “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our Consolidated Financial Statements and the notes included in Item 8 of this Annual Report on Form 10-K.

**Summary Consolidated Financial and Operating Data**  
**As of and for the Fiscal Year Ended(1)**  
**(in millions, except per share data and number of branches)**

	<b>2012</b> <b>(52 Weeks)</b>	<b>2011</b> <b>(52 Weeks)</b>	<b>2010</b> <b>(53 Weeks)</b>	<b>2009</b> <b>(52 Weeks)</b>	<b>2008</b> <b>(52 Weeks)</b>
<b>Statements of Operations Data:</b>					
Revenue from services	\$ 1,389.5	\$ 1,316.0	\$ 1,149.4	\$ 1,018.4	\$ 1,384.3
Cost of services	1,017.1	969.0	845.9	727.4	971.8
Gross profit	372.4	347.0	303.5	291.0	412.5
Selling, general and administrative expenses	300.5	282.8	258.8	262.2	332.1
Goodwill and intangible asset impairment	—	—	—	—	61.0
Depreciation and amortization	18.9	16.4	16.5	17.0	16.8
Interest and other income, net	1.6	1.5	0.9	2.3	5.5
Income before tax expenses	54.6	49.3	29.1	14.1	8.1
Income tax expense	21.0	18.5	9.3	5.3	12.3
Net income (loss)	\$ 33.6	\$ 30.8	\$ 19.8	\$ 8.8	\$ (4.2)
Net income (loss) per diluted share	\$ 0.84	\$ 0.73	\$ 0.46	\$ 0.20	\$ (0.10)
Weighted average diluted shares outstanding	39.9	42.3	43.5	43.0	42.9

	<b>At Fiscal Year End,</b>				
	<b>2012</b>	<b>2011</b>	<b>2010</b>	<b>2009</b>	<b>2008</b>
<b>Balance Sheet Data:</b>					
Working capital	\$ 203.6	\$ 168.3	\$ 207.6	\$ 163.2	\$ 147.5
Total assets	\$ 601.7	\$ 560.8	\$ 546.5	\$ 518.1	\$ 519.7
Long-term liabilities	\$ 154.5	\$ 154.9	\$ 147.8	\$ 147.9	\$ 154.2
Total liabilities	\$ 268.1	\$ 267.2	\$ 233.8	\$ 232.7	\$ 249.5
Branches open at period end	691	712	721	754	850

(1) Our fiscal year ends on the last Friday in December. The 2012 fiscal year ended on December 28, 2012, included 52 weeks. The 2010 fiscal year ended on December 31, 2010, included 53 weeks, with the 53rd week falling in our fourth fiscal quarter. All other prior years presented included 52 weeks.

The operating results reported above include the results of acquisitions subsequent to their respective purchase dates. In February 2008, we acquired substantially all of the assets of TLC Services Group, Inc. and in April 2008, we acquired 100% of the common stock of Personnel Management, Inc.

No cash dividends have been declared on our common stock to date nor have any decisions been made to pay a dividend in the future.

## **Item 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATION**

*The following discussion should be read in conjunction with, and is qualified in its entirety by, the Consolidated Financial Statements and Notes thereto included in Item 8 in this Annual Report on Form 10-K. This item contains forward-looking statements that involve risks and uncertainties. Actual results may differ materially from those indicated in such forward-looking statements. Factors that may cause such a difference include, but are not limited to, those discussed in "Item 1A, Risk Factors."*

Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") is designed to provide the reader of our financial statements with a narrative from the perspective of management on our financial condition, results of operations, liquidity and certain other factors that may affect future results. Our MD&A is presented in six sections:

- Overview
- Results of Operations
- Liquidity and Capital Resources
- Contractual Obligations and Commitments
- Summary of Critical Accounting Policies
- New Accounting Standards

### **OVERVIEW**

TrueBlue is a leading provider of temporary blue-collar staffing. We provide a wide range of specialized blue-collar staffing services. We have a network of 691 branches in all 50 states, Puerto Rico and Canada, customer on-site locations generally dedicated to one customer, and national service centers which supply our customers with temporary workers. In 2012, we connected approximately 350,000 people to work through the following blue-collar staffing brands: Labor Ready for general labor, Spartan Staffing for light industrial services, CLP Resources for skilled trades, PlaneTechs for aviation and diesel mechanics and technicians, and Centerline Drivers for dedicated and temporary drivers. Headquartered in Tacoma, Washington, we serve approximately 140,000 businesses primarily in the services, construction, transportation, manufacturing, retail and wholesale industries.

Revenue grew to \$1.4 billion for 2012, a 5.6% increase compared to the prior year. Revenue growth slowed in the second half of 2012 due to lower revenue from a large customer and softening growth trends across the business. Services related to this large customer are project based and have been declining throughout the year as the project matures and our customer makes workforce adjustments. Excluding revenue from this customer, revenue grew 8.6%. The growth is driven primarily by our continued success in renewable energy construction projects along with an improving construction market.

Our revenue growth is also due to the continued success of our specialized market sales and service strategy. Our dedicated sales leaders have expertise in the specific industries we serve. They partner with our service teams to meet the specific project needs of our national customers. Likewise, they provide our branches with best practice industry knowledge including sales and service methods for each industry. Our local sales and service teams build strong customer relationships and loyalty in providing tailored solutions that meet the day to day needs of our local customers.

Gross profit as a percent of revenue for fiscal 2012 of 26.8% improved by 0.4% compared to 2011 primarily due to increased bill rates which more than offset increases to minimum wages and unemployment taxes in 2012. We continue to be selective in the customers we serve and diligent in our approach to setting appropriate bill rates.

Selling, general, and administrative expenses as a percentage of revenue remained relatively constant at 21.6% for 2012 as compared to 21.5% for the prior year. Revenue from a large customer declined approximately \$30 million compared to 2011. The operations servicing this customer were not reduced as they are located in a national recruiting and service center that is being leveraged to grow other service lines.

Net income grew by 9.2% to \$34 million, or \$0.84 per diluted share for fiscal 2012, compared to a net income of \$31 million, or \$0.73 per diluted share, for fiscal 2011.

We are in a strong financial position to fund working capital needs for planned 2013 growth and expansion opportunities. We have cash and cash equivalents of \$130 million at December 28, 2012. As of December 28, 2012, the maximum \$80 million was available under the Revolving Credit Facility and \$7 million of letters of credit had been issued against the facility, leaving an unused portion of \$73 million.

## RESULTS OF OPERATIONS

The following table presents selected financial data (*in millions, except percentages and per share amounts*):

	2012	2011	2010
Revenue from services	\$ 1,389.5	\$ 1,316.0	\$ 1,149.4
Total revenue growth %	5.6%	14.5%	12.9%
Gross profit as a % of revenue	26.8%	26.4%	26.4%
Selling, general and administrative expenses	\$ 300.5	\$ 282.8	\$ 258.7
Selling, general and administrative expenses as a % of revenue	21.6%	21.5%	22.5%
Income from operations	\$ 53.0	\$ 47.8	\$ 28.3
Income from operations as a % of revenue	3.8%	3.6%	2.5%
Net Income	\$ 33.6	\$ 30.8	\$ 19.8
Net Income per diluted share	\$ 0.84	\$ 0.73	\$ 0.46

Our business experiences seasonal fluctuations. Our quarterly operating results are affected by the seasonality of our customers' businesses as well as timing and duration of project work. Demand for our staffing services is higher during the second and third quarters of the year with demand peaking in the third quarter and lower during the first and fourth quarters, in part due to limitations to outside work during the winter months.

### Revenue

Revenue from services in comparison with the same period in the prior year was as follows (*in millions, except percentages*):

	2012	2011	2010
Revenue from services	\$ 1,389.5	\$ 1,316.0	\$ 1,149.4
Total revenue growth %	5.6%	14.5%	12.9%

Revenue grew to \$1.4 billion for 2012, a 5.6% increase compared to the prior year. Revenue growth slowed in the second half of 2012 due to manufacturing declines, softening growth trends across the business, and lower revenue from a large customer. Services related to this large customer are project based and have been declining throughout the year as the project matures and our customer makes workforce adjustments. Excluding revenue from this customer revenue grew 8.6%. Our revenue growth is also due to the continued success of our specialized market sales and service strategy. Our dedicated sales leaders have expertise in the specific industries we serve. They partner with our service teams to meet the specific project needs of our national customers. Likewise, they provide our branches with best practice industry knowledge including sales and service methods for each industry. Our local sales and service teams build strong customer relationships and loyalty in providing tailored solutions that meet the day to day needs of our local customers. As a result we have experienced continued success in renewable energy construction projects along with an improving construction market.

For fiscal 2011, revenue grew to \$1.3 billion, a 14.5% increase compared to the prior year. The strong revenue growth in 2011 was primarily driven by strong demand for our services across most major industries and geographies. We experienced double digit revenue growth in most of the industry groups we serve.

### Gross profit

Gross profit in comparison with the same period in the prior year was as follows (*in millions, except percentages*):

	2012	2011	2010
Gross profit	\$ 372.4	\$ 347.0	\$ 303.5
Gross profit as a % of revenue	26.8%	26.4%	26.4%

Gross profit represents revenues from services less direct costs of services, which consist of payroll, payroll taxes, workers' compensation insurance costs, and reimbursable costs. Gross profit as a percent of revenue improved by 0.4% for fiscal 2012 primarily due to increased bill rates which more than offset increases to minimum wages and unemployment taxes in 2012. Our team continues to leverage our specialized approach in the blue-collar market along with disciplined pricing to drive higher gross margin. We are selective in the customers we serve and diligent in our approach to setting appropriate bill rates.

Workers' compensation expense was 3.8% of revenue for fiscal 2012 and 3.9% for fiscal 2011. We actively manage the safety of our temporary workers with our risk management programs and work together with our network of service providers to control costs. We further reduced accidents for fiscal 2012 and the associated cost of workers' compensation.

For Fiscal 2011, gross profit as a percentage of revenue was unchanged compared to fiscal 2010 due to offsetting factors. Gross profit as a percentage of revenue for fiscal 2010 included the benefit of HIRE Act credits, net of other payroll tax items, of 0.2% of revenue. The HIRE Act provided incentives for hiring and retaining workers by exempting the employer share of the social security tax on wages paid to qualified individuals beginning on March 18, 2010 and expired on December 31, 2010. Excluding the benefit of these net 2010 HIRE Act credits, gross profit as a percent of revenue for 2011 compared to 2010 has improved by 0.2%. The improvement was primarily due to our success with pricing and increased billing rates. Workers' compensation expense was 3.9% of revenue for fiscal 2011 and 3.8% for fiscal 2010.

#### ***Selling, general and administrative expenses***

Selling, general and administrative ("SG&A") expenses were as follows *(in millions, except percentages)*:

	<b>2012</b>	<b>2011</b>	<b>2010</b>
Selling, general and administrative expenses	\$ 300.5	\$ 282.8	\$ 258.7
Percentage of revenue	21.6%	21.5%	22.5%

SG&A as a percentage of revenue remained relatively constant at 21.6% for 2012 as compared to 21.5% for the prior year. The increase in SG&A spending of \$17.7 million or 6.2% for fiscal 2012 is primarily due to the variable selling and other operating expenses associated with the revenue increase of \$73.5 million or 5.6%. Excluding revenue from a large customer, revenue increased \$103.8 million or 8.6% over the prior year. Revenue from this large customer declined approximately \$30 million compared to 2011. The operations servicing this customer were not reduced as they are located in a national recruiting and service center that is being leveraged to grow other service lines. We remain focused on leveraging our cost structure which should produce incremental operating margins with additional future revenue.

We have continued to invest in our specialized vertical market sales and service strategy and projects to further improve our efficiency and effectiveness in recruiting and retaining our temporary workers and attracting and retaining our customers. We completed a major investment in the operating system of our largest brand during 2012. We are seeing the benefits of improved operating efficiency.

For fiscal 2011, SG&A declined to 21.5% as a percentage of revenue as compared to 22.5% for fiscal 2010. During 2011 we produced strong incremental operating margins as we leveraged our fixed cost structure. The increase in SG&A spending for 2011 was primarily due to two factors. First, we experienced an expected increase in variable expenses to support the increased revenue of \$167 million over the prior year. Second, we invested in specialized sales and marketing personnel to sell to and serve our vertical market customer groups. Our vertical market specialists and their programs made significant contributions to our revenue growth. We also filled open sales and service positions in local markets and made a variety of market adjustment increases to compensation to retain our key performers.

#### ***Depreciation and amortization and interest***

Depreciation and amortization and interest were as follows *(in millions, except percentages)*:

	<b>2012</b>	<b>2011</b>	<b>2010</b>
Depreciation and amortization	\$ 18.9	\$ 16.4	\$ 16.5
Percentage of revenue	1.4%	1.2%	1.4%

Depreciation and amortization for fiscal 2012 increased over the prior year by \$2.5 million primarily from increased capital spending on enterprise technology improvement projects. These projects are designed to further improve our efficiency and effectiveness in recruiting and retaining our temporary workers and attracting and retaining our customers.



**Interest and other income, net**

Depreciation and amortization and interest were as follows (in millions, except percentages):

	2012	2011	2010
Interest and other income, net	\$ 1.6	\$ 1.5	\$ 0.9
Percentage of revenue	0.1%	0.1%	0.1%

Net interest income for 2012 remained relatively flat when compared to 2011. Net interest income for 2011 increased over 2010 due to increased yields on our restricted cash and investments and the 2011 renewal of our revolving credit facility with lower fees and cost to borrow.

**Income taxes**

The effective income tax rate was as follows (in millions except percentages):

	2012	2011	2010
Income tax expense	\$ 21.0	\$ 18.5	\$ 9.3
Effective income tax rate	38.4%	37.6%	32.0%

Our effective tax rate on earnings for 2012 was 38.4% compared to 37.6% for the same period in 2011. The increase in the effective income tax rate is due primarily to federal Work Opportunity Tax Credits which largely expired at the end of 2011. This income tax credit was designed to encourage employers to hire workers from certain targeted groups with higher-than-average unemployment rates. The principal difference between the statutory federal income tax rate of 35% and our effective income tax rate results from state income taxes, federal tax credits and certain non-deductible expenses. The lower effective tax rate in 2010 was primarily due to the favorable resolution of certain prior year tax matters.

The American Taxpayer Relief Act of 2012 ("the Act") was signed into law on January 2, 2013. The Act retroactively restored the Work Opportunity Tax Credit. Because a change in tax law is accounted for in the period of enactment, the retroactive effect of the Act on the Company's U.S. federal taxes for 2012, a benefit of approximately \$3.2 million, will be recognized in 2013. In addition, we expect the Act's extension of these provisions through the end of 2013 will reduce our estimated annual effective tax rate for 2013 compared to 2012.

**Results of Operations Future Outlook**

The following highlights represent our expectations in regard to operating trends for fiscal year 2013. These expectations are subject to revision as our business changes with the overall economy:

- Our top priority remains to increase revenue and leverage our cost structure which should produce incremental operating margins with additional future revenue. We will continue to invest in our specialized sales and customer service programs which we believe will enhance our ability to capitalize on further revenue growth and customer retention. We actively pursue large project opportunities in vertical markets with growth opportunities. One of our largest successes is in the construction of renewable energy projects. While our growth rates have diminished due to more challenging prior year comparisons, renewable energy projects remain an attractive opportunity.
- Effective February 4, 2013, we acquired MDT Personnel, the third-largest general labor staffing firm in the United States. MDT supplies blue-collar labor to industries similar to those served by TrueBlue, including construction, event staffing, disaster recovery, hospitality, and manufacturing through its network of 105 branches and 15 customer on-site locations in 25 states. TrueBlue will expand the size of its general labor business by merging MDT's operations with those of the Labor Ready brand. Selected branches will be consolidated to leverage our cost structure and produce long term incremental operating margins. The acquisition will enhance TrueBlue's national position as the leading provider of dependable blue-collar temporary labor. The decision to acquire MDT's operations reflects our overall optimism about growth in the staffing industry. We will continue to pursue other opportunities to grow our share of the blue collar market through acquisitions.
- As the economy grows, we will continue to evaluate opportunities to expand our market presence. All of our multi-location brands have opportunities to expand through new physical locations or by sharing existing locations. Where possible, we plan to expand the presence of our brands by sharing existing locations to achieve cost synergies. We plan to build on our success with centralized recruitment and dispatch of our temporary workers to locations without physical branches and expand our geographic reach.

- We have been investing in mobile technology solutions. We see compelling opportunities to improve the speed in assigning candidates to jobs and increase the productivity of our branch employees resulting in the consolidation of branches and other benefits to our cost structure. These technologies are currently under development and we expect to deploy them during the middle of 2013. We believe this will position us to begin generating efficiencies during the back half of 2013. The extent of additional efficiencies will be understood after our deployment and evaluation in 2013.
- Services for a large customer project have been declining throughout 2012 as the project matures and our customer makes workforce adjustments. While we expect continued revenue from this customer, our work is project based and the completion of certain projects will continue to impact our revenue trends. Revenue from this customer was approximately \$76 million in 2012. We expect that to continue to decline in 2013.
- Customer demand for blue-collar staffing services is dependent on the overall strength of the labor market and trends towards greater workforce flexibility within the blue-collar markets in which we operate. Due to our industry's sensitivity to economic factors, the inherent difficulty in forecasting the direction and strength of the economy and the short term nature of staffing assignments, our visibility for future demand is limited. As a result, we monitor a number of economic indicators as well as certain trends to estimate future revenue. Future results will be dependent on whether the underlying economic uncertainty continues, trends in customer preference towards a more flexible workforce continue, and our ability to more effectively and efficiently serve customer needs. Based on these anticipated trends, we expect continued uncertainty in the economy and pressure on revenue in 2013. However, we are encouraged by an improving construction market and diminishing uncertainty.

## LIQUIDITY AND CAPITAL RESOURCES

Our principal source of liquidity is operating cash flows. Our net income and, consequently, our cash provided from operations are impacted by sales volume, timing of collections, seasonal sales patterns and profit margins. Over the past three fiscal years, net cash provided by operations was approximately \$124.9 million.

### *Cash flows from operating activities*

Our cash flows from operating activities were as follows (*in millions*):

	2012	2011	2010
Net income	\$ 33.6	\$ 30.8	\$ 19.8
Adjustments to reconcile net income to net cash from operating activities:			
Depreciation and amortization	18.9	16.4	16.5
Provision for doubtful accounts	7.0	6.6	8.2
Stock-based compensation	7.9	7.4	7.2
Deferred income taxes	3.1	(1.9)	5.3
Other operating activities	1.9	(0.5)	(0.2)
Changes in operating assets and liabilities:			
Accounts receivable	(20.4)	(51.8)	(11.6)
Income taxes	(3.7)	3.5	(3.3)
Accounts payable and other accrued expenses	1.3	16.2	3.4
Workers' compensation claims reserve	3.7	4.5	(2.2)
Other assets and liabilities	(1.0)	(0.6)	(1.1)
Net cash provided by operating activities	<u>\$ 52.3</u>	<u>\$ 30.6</u>	<u>\$ 42.0</u>

Net cash provided by operating activities was \$52.3 million for fiscal 2012 as compared to net cash provided by operating activities of \$30.6 million for fiscal 2011.

- The increase in cash from operating activities is primarily due to net income of \$33.6 million.
- In 2012, accounts receivable increased by \$20.4 million primarily due to continued revenue growth. In 2011, accounts receivable increased by \$51.8 million due to revenue growth and a low beginning balance due to significant customer payments received at the end of 2010.

- The increase in depreciation and amortization during 2012 is primarily due to increased capital spending focused on enterprise technology improvement projects. These projects are designed to further improve our efficiency and effectiveness in recruiting and retaining our temporary workers and attracting and retaining our customers.
- Generally our workers' compensation reserve for estimated claims increases as temporary labor services increase and decreases as temporary labor services decline. During the current year, our workers' compensation reserve increased as we increased the delivery of temporary labor services, partially offset by the timing of claim payments.
- Income taxes receivable increased in 2012 due to over payments of estimated taxes as a result of larger than expected deductions.

#### **Cash flows from investing activities**

Our cash flows from investing activities were as follows (*in millions*):

	<b>2012</b>	<b>2011</b>	<b>2010</b>
Capital expenditures	\$ (17.8)	\$ (9.7)	\$ (7.0)
Change in restricted cash and cash equivalents	7.6	68.5	3.9
Purchase of restricted investments	(33.8)	(88.2)	—
Maturities of restricted investments	18.1	9.3	—
Other	(0.3)	(6.8)	(0.3)
Net cash used in investing activities	<u>\$ (26.2)</u>	<u>\$ (26.9)</u>	<u>\$ (3.4)</u>

- Capital expenditures were higher in 2012 primarily related to investments made to upgrade our proprietary information systems and invest in enterprise technology improvement projects. These projects are designed to further improve our efficiency and effectiveness in recruiting, dispatching and retaining our workers as well as leveraging our centralized service delivery and making it easier for the customer to do business. We anticipate that total capital expenditures will be approximately \$10 million in 2013.
- Restricted cash and investments consist primarily of collateral that has been provided or pledged to insurance carriers and state workers' compensation programs. The change in restricted cash and cash equivalents is primarily a product of purchasing restricted investments, maturities on restricted investments, and payments to workers' compensation insurance providers. When combining this change with purchases of restricted investments net of maturities of restricted investments, restricted cash and investments increased by \$8.1 million for fiscal 2012. This increase is primarily due to an increase in the collateral requirements by our workers' compensation insurance providers related to growth in operations and due the timing of payments to our insurance providers.

In 2011, the changes to restricted cash and investments were primarily due an agreement we entered into with AIG, formerly known as Chartis, and the Bank of New York Mellon creating a trust ("Trust") which holds the majority of our collateral obligations under existing workers' compensation insurance policies previously held directly by AIG. Restricted investments increased by \$10.4 million for 2011, primarily due to additional restricted cash and investments required as collateral due to growth.

- The 2011 change to Other includes the purchase of a staffing company and a technology company in 2011.

**Cash flows from financing activities**

Our cash flows from financing activities were as follows (*in millions*):

	<b>2012</b>	<b>2011</b>	<b>2010</b>
Purchases and retirement of common stock	\$ (4.4)	\$ (56.9)	\$ —
Net proceeds from stock option exercises and employee stock purchase plans	4.2	1.1	1.1
Common stock repurchases for taxes upon vesting of restricted stock	(2.2)	(1.8)	(1.6)
Payments on debt	(4.5)	(0.3)	(0.4)
Other	0.7	0.7	0.1
Net cash used in financing activities	<u>\$ (6.2)</u>	<u>\$ (57.2)</u>	<u>\$ (0.8)</u>

- Under our authorized stock repurchase program, we repurchased and retired 0.3 million shares of our common stock during fiscal 2012 for a total amount of \$4.4 million including commissions. We repurchased and retired 4.5 million shares of our common stock during fiscal 2011 for a total amount of \$56.9 million including commissions.

**Future outlook**

We are in a strong financial position to fund working capital needs for planned growth. The strength of our current financial position is highlighted as follows:

- We have cash and cash equivalents of \$129.5 million as of December 28, 2012.
- Our borrowing availability under our credit facility is principally based on accounts receivable and the value of our corporate building. We have \$72.8 million of borrowing available under our credit facility as of December 28, 2012. We believe the credit facility provides adequate borrowing availability.
- The majority of our workers' compensation payments are made from restricted cash versus cash from operations.
- On July 25, 2012, we filed a \$100 million Shelf Registration Statement with the Securities and Exchange Commission that replaced our previous Shelf Registration which expired in July 2012. The Shelf Registration allows us to sell various securities in amounts and prices determined at the time of sale. The filing enables us to access capital efficiently and quickly if needed, however, we have no current plans to make an offering.

We believe that cash provided from operations and our capital resources will be adequate to meet our cash requirements over the next twelve months, and thereafter for the foreseeable future. However, should economic conditions again deteriorate, our financial results could be adversely impacted and we may need to seek additional sources of capital. These additional sources of financing may not be available, or may not be available on commercially reasonable terms.

**Capital resources**

We have a credit agreement with Bank of America, N.A. and Wells Fargo Capital Finance, LLC for a secured revolving credit facility of up to a maximum of \$80 million (the "Revolving Credit Facility"). The Revolving Credit Facility expires in September 2016.

The maximum amount we can borrow under the Revolving Credit Facility is subject to certain borrowing limits. Specifically, we are limited to the sum of 85% of our eligible accounts receivable and the liquidation value of our Tacoma headquarters office building not to exceed \$15 million, which is reduced quarterly by \$0.4 million. As of December 28, 2012, the Tacoma headquarters office building liquidation value totaled \$13.5 million. This borrowing limit is further reduced by the sum of a reserve in an amount equal to the payroll and payroll taxes for our temporary employees for one payroll cycle and other reserves if deemed applicable. As of December 28, 2012, the maximum \$80 million was available and letters of credit in the amount of \$7.2 million had been issued against the facility, leaving an unused portion of \$72.8 million. The letters of credit collateralize a portion of our workers' compensation obligation.

The Revolving Credit Facility requires that we maintain liquidity in excess of \$12 million or be subject to a fixed charge coverage ratio. Liquidity is defined as the amount we are entitled to borrow as advances under the Revolving Credit Facility plus the amount of cash and cash equivalents held in accounts subject to a control agreement benefiting the lenders. The amount we were entitled to borrow at December 28, 2012 was \$72.8 million and the amount of cash and cash equivalents under control agreements was

\$128.3 million for a total of \$201.1 million of liquidity, which is well in excess of the minimum liquidity requirement. We are currently in compliance with all covenants related to the Revolving Credit Facility.

Under the terms of the Revolving Credit Facility, we pay a variable rate of interest on funds borrowed that is based on LIBOR or the Prime Rate, at our option, plus an applicable spread based on excess liquidity as set forth below:

<b>Excess Liquidity</b>	<b>Prime Rate Loans</b>	<b>LIBOR Rate Loans</b>
Greater than \$40 million	0.50%	1.50%
Between \$20 million and \$40 million	0.75%	1.75%
Less than \$20 million	1.00%	2.00%

A fee on borrowing availability of 0.25% is also applied against the unused portion of the Revolving Credit Facility. Letters of credit are priced at the margin in effect for LIBOR loans, plus a fronting fee of 0.125%.

Obligations under the Revolving Credit Facility are secured by substantially all of our domestic personal property and our headquarters located in Tacoma, Washington.

We have agreements with certain financial institutions that allow us to restrict cash and cash equivalents and investments for the purpose of providing collateral instruments to our insurance carriers to satisfy workers' compensation claims. At December 28, 2012, we had restricted cash and investments totaling approximately \$136.3 million.

In 2011, we entered into an agreement with AIG, formerly known as Chartis, and the Bank of New York Mellon creating a trust ("Trust") which holds the majority of our collateral obligations under existing workers' compensation insurance policies previously held directly by AIG. We established investment policy directives for the Trust, with the first priority to be preservation of capital, second to maintain and ensure a high degree of liquidity, and third to maximize after-tax returns.

Trust investments must meet minimum acceptable quality standards. The primary investments include U.S. Treasury Securities, U.S. Agency Debentures, U.S. Agency Mortgages, Corporate Securities, and Municipal Securities. For those investments rated by the Nationally Recognized Statistical Rating Organizations the minimum ratings are:

	<b>S&amp;P</b>	<b>Moody's</b>	<b>Fitch</b>
Short-term Rating	A-1/SP-1	P-1/MIG-1	F-1
Long-term Rating	A	A2	A

#### ***Workers' compensation insurance, collateral and claims reserves***

##### *Workers' compensation insurance*

We provide workers' compensation insurance for our temporary and permanent employees. For policy years beginning in July 2003 and thereafter, AIG, formerly known as Chartis, has been our workers' compensation carrier. The policy year is effective July 1 to June 30 and is subject to annual renewal. We completed our renewal with AIG for the 2012 - 2013 policy year in June. For certain states we pay workers' compensation insurance premiums and obtain full coverage under government-administered programs. The majority of our current workers' compensation insurance policies cover claims for an event above a \$2.0 million deductible limit, on a "per occurrence" basis. This results in our being substantially self-insured. While we have primary responsibility for all claims, our insurance coverage provides reimbursement for certain losses and expenses beyond our deductible limits ("Excess Claims").

We have full liability for all remaining payments on claims that originated between January 2001 and June 2003, without recourse to any third party insurer as the result of a novation agreement we entered into with Kemper Insurance Company in December 2004. Prior to 2001, we were insured by various carriers who are now insolvent and as a result we are substantially reserved for any claims above the self-insurance limit.

##### *Workers' compensation collateral*

Our insurance carriers and certain state workers' compensation programs require us to collateralize a portion of our workers' compensation obligation, for which they become responsible should we become insolvent. The collateral typically takes the form of cash and cash-backed instruments, highly rated investment grade securities, letters of credit, and/or surety bonds. On a regular basis, these entities assess the amount of collateral they will require from us relative to our workers' compensation obligation. Such amounts can increase or decrease independent of our assessments and reserves. We generally anticipate that our collateral

commitments will continue to grow as we grow our business. We pay our premiums and deposit our collateral in installments. AIG is the beneficiary of the Trust held at Bank of New York Mellon, which holds the majority of the restricted cash and investments collateralizing our self-insured workers' compensation policies.

Our total collateral commitments were made up of the following components (*in millions*):

	<b>2012</b>	<b>2011</b>
Cash collateral held by insurance carriers	\$ 21.5	\$ 21.3
Cash and cash equivalents held in Trust (1)	14.8	19.2
Investments held in Trust	91.2	78.0
Letters of credit (2)	9.0	16.7
Surety bonds (3)	16.2	16.2
Total collateral commitments	<u>\$ 152.7</u>	<u>\$ 151.4</u>

- (1) Included in this amount is \$0.9 million and \$0.8 million of accrued interest at December 28, 2012 and December 30, 2011, respectively.
- (2) We have agreements with certain financial institutions to issue letters of credit as collateral. We had \$1.8 million and \$5.9 million of restricted cash collateralizing our letters of credit at December 28, 2012 and December 30, 2011, respectively.
- (3) Our surety bonds are issued by independent insurance companies on our behalf and bear annual fees based on a percentage of the bond, which is determined by each independent surety carrier, but do not exceed 2.0% of the bond amount, subject to a minimum charge. The terms of these bonds are subject to review and renewal every one to four years and most bonds can be canceled by the sureties with as little as 60 days notice.

*Workers' compensation reserve*

The following table provides a reconciliation of our collateral commitments to our workers' compensation reserve as of the period end dates presented (*in millions*):

	<b>2012</b>	<b>2011</b>
Total workers' compensation reserve	\$ 195.6	\$ 191.8
Add back discount on reserves (1)	20.4	18.6
Less excess claims reserve (2)	(26.9)	(27.2)
Reimbursable payments to insurance provider (3)	6.4	2.9
Less portion of workers' compensation not requiring collateral (4)	(42.8)	(34.7)
Total collateral commitments	<u>\$ 152.7</u>	<u>\$ 151.4</u>

- (1) Our workers' compensation reserves are discounted to their estimated net present value while our collateral commitments are based on the gross, undiscounted reserve.
- (2) Workers' compensation reserve includes the estimated obligation for claims above our deductible limits. These are the responsibility of the insurance carriers against which there are no collateral requirements.
- (3) This amount is included in restricted cash and represents a timing difference between claim payments made by our insurance carrier and the reimbursement from cash held in the Trust. When claims are paid by our carrier, the amount is removed from the workers' compensation reserve but not removed from collateral until reimbursed to the carrier.
- (4) Represents deductible and self-insured reserves where collateral is not required.

Our workers' compensation reserve is established using estimates of the future cost of claims and related expenses, which are discounted to their estimated net present value. The discounted workers' compensation claims reserve was \$195.6 million at December 28, 2012.

Our workers' compensation reserve for self-insured claims is established using estimates of the future cost of claims and related expenses that have been reported but not settled, as well as those that have been incurred but not reported. Reserves are estimated for claims incurred in the current year, as well as claims incurred during prior years. Management evaluates the adequacy of the workers' compensation reserves in conjunction with an independent quarterly actuarial assessment. Factors considered in establishing and adjusting these reserves include, among other things:

- Changes in medical and time loss ("indemnity") costs;
- Mix changes between medical only and indemnity claims;
- Regulatory and legislative developments that have increased benefits and settlement requirements;

- Type and location of work performed;
- The impact of safety initiatives; and,
- Positive or adverse development of claim reserves.

Our workers' compensation claims reserves are discounted to their estimated net present value using discount rates based on returns of "risk-free" U.S. Treasury instruments with maturities comparable to the weighted average lives of our workers' compensation claims.

Our workers' compensation reserves include estimated expenses related to claims above our deductible limits ("excess claims"), and a corresponding receivable for the insurance coverage on excess claims based on the contractual policy agreements we have with insurance carriers. We discount this reserve and corresponding receivable to its estimated net present value using the discount rates based on average returns of "risk-free" U.S. Treasury instruments available during the year in which the liability was incurred. The discounted workers' compensation reserve for excess claims and the corresponding receivable for the insurance on excess claims was \$27.1 million as of December 28, 2012.

The following table provides an analysis of changes in our workers' compensation claims reserves (*n millions*):

	2012	2011	2010
Beginning balance	\$ 191.8	\$ 187.3	\$ 189.5
Self-insurance reserve expenses related to current year, net (1)	55.7	52.4	49.4
Payments related to current year claims (2)	(11.3)	(11.2)	(11.9)
Payments related to claims from prior years (2)	(26.9)	(29.3)	(27.4)
Changes to prior years' self-insurance reserve, net (3)	(13.7)	(16.9)	(17.1)
Amortization of prior years' discount (4)	0.2	7.9	4.6
Net change in excess claims reserve (5)	(0.2)	1.6	0.2
Ending balance	195.6	191.8	187.3
Less current portion	44.7	43.5	42.4
Long-term portion	\$ 150.9	\$ 148.3	\$ 144.9

- (1) Our self-insurance reserves are discounted to their estimated net present value using discount rates based on returns of "risk-free" U.S. Treasury instruments with maturities comparable to the weighted average lives of our workers' compensation claims. At December 28, 2012, the weighted average rate was 2.4%.
- (2) Payments made against self-insured claims are made over a weighted average period of approximately 5.5 years.
- (3) Changes in reserve estimates are reflected in the statement of operations in the period when the changes in estimates are made.
- (4) Amortization of discount over the estimated weighted average life. In addition, any changes to the estimated weighted average lives and corresponding discount rates for actual payments made are reflected in the statement of operations in the period when the changes in estimates are made.
- (5) Changes to the workers' compensation reserve for claims above our self-insured limits ("excess claims") net of discount to its estimated net present value using the risk-free rates associated with the actuarially determined weighted average lives of our excess claims. At December 28, 2012, the weighted average rate was 4.4%. The excess claim payments are made and the corresponding reimbursements from our insurance carriers are received over a weighted average period of approximately 19.7 years. Two of the workers' compensation insurance companies with which we formerly did business are in liquidation and have failed to pay a number of excess claims to date. We have recorded a valuation allowance against all of the insurance receivables from the insurance companies in liquidation.

## CONTRACTUAL OBLIGATIONS AND COMMITMENTS

We have various contractual obligations that are recorded as liabilities in our consolidated financial statements. Certain contractual obligations, such as operating leases, are not recognized as liabilities in our consolidated financial statements, but are required to be disclosed. There were no material changes outside the ordinary course of business in our contractual obligations during 2012.

The following table provides a summary of our contractual obligations as of the end of fiscal 2012. We expect to fund these commitments with existing cash and cash equivalents, and cash flows from operations.

Contractual Obligations	Payments Due by Period (in millions)				
	Total	2013	2014 through 2015	2016 through 2017	2018 and later
Operating leases (1)	\$ 17.8	\$ 6.6	\$ 8.0	\$ 3.0	\$ 0.2
Capital leases	0.1	0.1	—	—	—
Purchase obligations (2)	7.5	6.9	0.6	—	—
Other obligations (3)	8.3	6.4	—	—	1.9
<b>Total contractual cash obligations</b>	<b>\$ 33.7</b>	<b>\$ 20.0</b>	<b>\$ 8.6</b>	<b>\$ 3.0</b>	<b>\$ 2.1</b>

(1) Excludes all payments related to branch leases cancelable within 90 days

(2) Purchase obligations include agreements to purchase goods and services that are enforceable, legally binding and specify all significant terms. Purchase obligations do not include agreements that are cancelable without significant penalty.

(3) Includes \$1.9 million for liability for unrecognized tax benefits and \$6.4 million for future payments related to acquisition.

### SUMMARY OF CRITICAL ACCOUNTING ESTIMATES

Management's Discussion and Analysis of Financial Condition and Results of Operations discusses our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP"). The preparation of these financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenue and expenses during the reporting period. On an on-going basis, management evaluates its estimates and judgments. Management bases its estimates and judgments on historical experience and on various other factors that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

Management believes that the following accounting estimates are the most critical to aid in fully understanding and evaluating our reported financial results, and they require management's most difficult, subjective or complex judgments, resulting from the need to make estimates about the effect of matters that are inherently uncertain.

#### *Workers' compensation reserves*

We maintain reserves for workers' compensation claims, including the excess claims portion above our deductible, using actuarial estimates of the future cost of claims and related expenses. These estimates include claims that have been reported but not settled and claims that have been incurred but not reported. These reserves, which reflect potential liabilities to be paid in future periods based on estimated payment patterns, are discounted to estimated net present value using discount rates based on average returns on "risk-free" U.S. Treasury instruments, which are evaluated on a quarterly basis. We evaluate the reserves regularly throughout the year and make adjustments accordingly. If the actual cost of such claims and related expenses exceed the amounts estimated, additional reserves may be required. Changes in reserve estimates are reflected in the statement of operations in the period when the changes in estimates are made.

Our workers' compensation reserves include estimated expenses related to claims above our self-insured limits ("excess claims") and a corresponding receivable for the insurance coverage on excess claims based on the contractual policy agreements we have with insurance companies. We discount the reserve and its corresponding receivable to its respective estimated net present value using the risk-free rates associated with the actuarially determined weighted average lives of our excess claims. When appropriate, based on our best estimate, we record a valuation allowance against the insurance receivable to reflect amounts that may not be realized.

There are two main factors that impact workers' compensation expense: the number of claims and the cost per claim. The number of claims is driven by the volume of hours worked, the business mix which reflects the type of work performed, and the safety of the environment where the work is performed. The cost per claim is driven primarily by the severity of the injury, the state in which the injury occurs, related medical costs, and lost-time wage costs. A 10% increase in the cost of claims incurred would result in an increase to workers' compensation expense of \$5.5 million. We have not had significant changes in the assumptions used in calculating our reserve balance. However, our reserve balances have been positively impacted primarily by the success of our



accident prevention programs. In the event that we are not able to further reduce our accident rates, the positive impacts to our reserve balance will diminish.

***Stock-based compensation***

Under various plans, officers, employees and non-employee directors have received or may receive grants of stock, restricted stock awards, performance share units or options to purchase common stock. We also have an employee stock purchase plan (“ESPP”).

Compensation expense for restricted stock and stock units is generally recognized on a straight-line basis over the vesting period, based on the stock’s fair market value on the grant date. For restricted stock grants issued with performance conditions, compensation expense is recognized over each vesting tranche. We recognize compensation expense for only the portion of restricted stock and stock units that is expected to vest, rather than record forfeitures when they occur. If the actual number of forfeitures differs from those estimated by management, additional adjustments to compensation expense may be required in the future periods. We determine the fair value of options to purchase common stock using the Black-Scholes valuation model, which requires the input of subjective assumptions. We recognize expense over the service period for options that are expected to vest and record adjustments to compensation expense at the end of the service period if actual forfeitures differ from original estimates. Based on an analysis using changes in certain assumptions that could be reasonably possible in the near term, management believes the effect on the expense recognized for fiscal 2012 would not have been material.

***Allowance for doubtful accounts***

We establish an allowance for doubtful accounts for estimated losses resulting from the failure of our customers to make required payments. The allowance for doubtful accounts is determined based on historical write-off experience, expectations of future write-offs and current economic data and represents our best estimate of the amount of probable credit losses. The allowance for doubtful accounts is reviewed quarterly and past due balances are written-off when it is probable the receivable will not be collected. If the financial condition of our customers were to deteriorate, resulting in an impairment of their ability to make payments, additional allowances may be required.

***Goodwill and intangible assets***

Goodwill is the excess of the purchase price over the fair value of identifiable net assets acquired in business combinations. We allocated goodwill to reporting units based on the reporting units that are expected to benefit from the business combination. We do not amortize goodwill but test it for impairment annually as of the last day of our fiscal third quarter, or when indications of potential impairment exist. We monitor the existence of potential impairment indicators throughout the fiscal year.

We test for goodwill impairment at the reporting unit level. We consider our brands Labor Ready, Spartan Staffing, CLP Resources, PlaneTechs and Centerline to be reporting units for goodwill impairment testing. In fiscal 2012, 2011 and 2010, there were no changes to our reporting units. The impairment test involves comparing the fair value of each reporting unit to its carrying value, including goodwill. Fair value reflects the price a market participant would be willing to pay in a potential sale of the reporting unit. If the fair value exceeds carrying value, then we conclude that no goodwill impairment has occurred. If the carrying value of the reporting unit exceeds its fair value, a second step is required to measure possible goodwill impairment loss. The second step includes hypothetically valuing the tangible and intangible assets and liabilities of the reporting unit as if the reporting unit had been acquired in a business combination. Then, the implied fair value of the reporting unit’s goodwill is compared to the carrying value of that goodwill. If the carrying value of the reporting unit’s goodwill exceeds the implied fair value of the goodwill, we recognize an impairment loss in an amount equal to the excess, not to exceed the carrying value. We determine the fair value of each reporting unit primarily using a discounted cash flow model. Based on our test, the fair market value of our reporting units was substantially greater than net carrying value.

Considerable management judgment is necessary to evaluate the impact of operating and macroeconomic changes on each reporting unit. Critical assumptions include projected revenue growth, gross profit rates, selling, general and administrative expense rates, working capital fluctuations, capital expenditures and terminal growth rates, as well as an appropriate risk adjusted discount rate. Discount rates are determined using the capital asset pricing model.

The blue-collar staffing market is subject to volatility based on overall economic conditions. As a consequence, our revenues tend to increase quickly when the economy begins to grow, as occurred during 2011. Conversely, our revenues also decrease quickly when the economy begins to weaken, as occurred during the most recent recession. If actual results were to significantly deviate from management's estimates and assumptions of future performance, we could experience a material impairment to our goodwill.

We also use comparable market earnings multiple data and our company’s market capitalization to corroborate our reporting unit valuations. We base fair value estimates on assumptions we believe to be reasonable but that are unpredictable and inherently uncertain. Actual future results may differ from those estimates.

We have indefinite-lived intangible assets related to our CLP Resources and Spartan Staffing trade names. We test our trade names annually for impairment, or when indications of potential impairment exist. We utilize the relief from royalty method to determine the fair value of each of our trade names. If the carrying value exceeds the fair value, we recognize an impairment loss in an amount equal to the excess. Considerable management judgment is necessary to determine key assumptions, including projected revenue, royalty rates and appropriate discount rates.

An impairment assessment of physical assets is necessary whenever events or circumstances indicate that the carrying value of the assets may not be recoverable. In such cases, the asset must be written down to the greater of the net realizable value or fair market value.

#### ***Reserves for contingent legal and regulatory liabilities***

From time to time we are subject to compliance audits by federal, state, and local authorities relating to a variety of regulations including wage and hour laws, taxes, workers' compensation, immigration, and safety. From time to time we are also subject to legal proceedings in the ordinary course of our operations. We have established reserves for contingent legal and regulatory liabilities. We record a liability when our management judges that it is probable that a legal claim will result in an adverse outcome and the amount of liability can be reasonably estimated. To the extent that an insurance company is contractually obligated to reimburse us for a liability, we record a receivable for the amount of the probable reimbursement. We evaluate our reserve regularly throughout the year and make adjustments as needed. If the actual outcome of these matters is different than expected, an adjustment is charged or credited to expense in the period the outcome occurs or the period in which the estimate changes.

#### ***Income taxes and related valuation allowances***

We account for income taxes by recording taxes payable or refundable for the current year and deferred tax assets and liabilities for the future tax consequences of events that have been recognized in our financial statements or tax returns. We measure these expected future tax consequences based upon the provisions of tax law as currently enacted; the effects of future changes in tax laws are not anticipated. Future tax law changes, such as changes to federal and state corporate tax rates and the mix of states and their taxable income, could have a material impact on our financial condition or results of operations. When appropriate, we record a valuation allowance against deferred tax assets to offset future tax benefits that may not be realized. In determining whether a valuation allowance is appropriate, we consider whether it is more likely than not that all or some portion of our deferred tax assets will not be realized, based in part upon management's judgments regarding future events and past operating results.

### **NEW ACCOUNTING STANDARDS**

See Note 1 to the consolidated financial statements included in Item 8 of this Annual Report on Form 10-K.

### **Item 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

We are exposed to market risk related to changes in interest rates and foreign currency exchange rates, each of which could adversely affect the value of our investments. We do not currently use derivative financial instruments.

In 2011, we entered into an agreement with AIG, formerly known as Chartis, and the Bank of New York Mellon creating a trust which holds the majority of our collateral obligations under existing workers' compensation insurance policies previously held by AIG. The Trust now holds a significant portion of our total Restricted cash and investments, much of which is invested in high quality debt instruments. As a result of the shift in our restricted cash and investments portfolio, we are exposed to risk from interest rates and credit exposure. We mitigate these risks through investment policy directives for the Trust, with the first priority to be the preservation of capital, and second to maintain and ensure a high degree of liquidity. The investments are broadly diversified among high quality investments in U.S. Treasury Securities, U.S. Agency Debentures, U.S. Agency Mortgages, Corporate Securities, and Municipal Securities. The individual investments within the Trust are subject to credit risk due to possible rating changes, default or impairment. We monitor the portfolio to ensure this risk does not exceed prudent levels. We consistently apply and adhere to our investment policy of holding high quality, diversified securities.

We have the positive intent and ability to hold all investments until maturity and accordingly all our investments are classified as held-to-maturity. Any fluctuation or change in interest rates would not impact our net income. Furthermore, an increase or decrease in interest rates immediately and uniformly by 10% would not have a material effect on our restricted cash and investments or cash and cash equivalents balances.

We have a certain amount of assets and liabilities denominated in certain foreign currencies related to our international operations. We have not hedged our foreign currency translation risk and we have the ability to hold our foreign-currency

denominated assets indefinitely and do not expect that a sudden or significant change in foreign exchange rates will have a material impact on future operating results or cash flows.

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**Item 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

The following consolidated financial statements of the Company and its subsidiaries are included herein as indicated below:

Report of Independent Registered Public Accounting Firm

Consolidated Financial Statements

Consolidated Balance Sheets - December 28, 2012 and December 30, 2011

Consolidated Statements of Operations & Comprehensive Income - Fiscal years ended December 28, 2012, December 30, 2011 and December 31, 2010

Consolidated Statements of Shareholders' Equity - Fiscal years ended December 28, 2012, December 30, 2011 and December 31, 2010

Consolidated Statements of Cash Flows - Fiscal years ended December 28, 2012, December 30, 2011 and December 31, 2010

Notes to Consolidated Financial Statements

Selected Quarterly Financial Data (unaudited)

**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Board of Directors and Shareholders of TrueBlue, Inc.  
Tacoma, Washington

We have audited the accompanying consolidated balance sheets of TrueBlue, Inc. and subsidiaries (the "Company") as of December 28, 2012 and December 30, 2011, and the related consolidated statements of operations and comprehensive income, shareholders' equity, and cash flows for each of the three years in the period ended December 28, 2012. Our audits also included the financial statement schedules listed in the index at Item 15(a)(2). These financial statements and financial statement schedules are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and financial statement schedules based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of TrueBlue, Inc. and subsidiaries as of December 28, 2012 and December 30, 2011, and the results of their operations and their cash flows for each of the three years in the period ended December 28, 2012, in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, such financial statement schedules, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Company's internal control over financial reporting as of December 28, 2012, based on the criteria established in *Internal Control - Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated February 21, 2013 expressed an unqualified opinion on the Company's internal control over financial reporting.

/s/ Deloitte & Touche LLP

Seattle, Washington  
February 21, 2013

**TRUEBLUE, INC.**  
**CONSOLIDATED BALANCE SHEETS**  
**In Thousands (Except Par Values)**

	December 28, 2012	December 30, 2011
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 129,513	\$ 109,311
Accounts receivable, net of allowance for doubtful accounts	167,292	153,878
Prepaid expenses, deposits and other current assets	8,541	9,252
Income tax receivable	6,373	1,874
Deferred income taxes	5,447	6,300
Total current assets	317,166	280,615
Property and equipment, net	58,171	56,239
Restricted cash and investments	136,259	130,498
Deferred income taxes	2,562	4,818
Goodwill	48,079	48,139
Intangible assets, net	16,554	19,433
Other assets, net	22,952	21,027
Total assets	<u>\$ 601,743</u>	<u>\$ 560,769</u>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
Current liabilities:		
Accounts payable and other accrued expenses	\$ 27,292	\$ 25,862
Accrued wages and benefits	35,102	35,271
Current portion of workers' compensation claims reserve	44,652	43,554
Other current liabilities	6,510	7,602
Total current liabilities	113,556	112,289
Workers' compensation claims reserve, less current portion	150,937	148,289
Other long-term liabilities	3,576	6,612
Total liabilities	<u>268,069</u>	<u>267,190</u>
Commitments and contingencies (Note 7)		
Shareholders' equity:		
Preferred stock, \$0.131 par value, 20,000 shares authorized; No shares issued and outstanding	—	—
Common stock, no par value, 100,000 shares authorized; 40,220 and 39,933 shares issued and outstanding	1	1
Accumulated other comprehensive income	2,818	2,643
Retained earnings	330,855	290,935
Total shareholders' equity	333,674	293,579
Total liabilities and shareholders' equity	<u>\$ 601,743</u>	<u>\$ 560,769</u>

See accompanying notes to consolidated financial statements

## TRUEBLUE, INC.

**CONSOLIDATED STATEMENTS OF OPERATIONS & COMPREHENSIVE INCOME**  
**FISCAL YEARS ENDED DECEMBER 28, 2012, DECEMBER 30, 2011 AND DECEMBER 31, 2010**

In Thousands (Except Per Share Data)

	2012	2011	2010
Revenue from services	\$ 1,389,530	\$ 1,316,013	\$ 1,149,367
Cost of services	1,017,145	968,967	845,916
Gross profit	372,385	347,046	303,451
Selling, general and administrative expenses	300,459	282,828	258,722
Depreciation and amortization	18,890	16,384	16,468
Income from operations	53,036	47,834	28,261
Interest expense	(1,131)	(1,207)	(1,515)
Interest and other income	2,700	2,697	2,416
Interest and other income, net	1,569	1,490	901
Income before tax expense	54,605	49,324	29,162
Income tax expense	20,976	18,533	9,323
Net income	\$ 33,629	\$ 30,791	\$ 19,839
Net income per common share:			
Basic	\$ 0.85	\$ 0.73	\$ 0.46
Diluted	\$ 0.84	\$ 0.73	\$ 0.46
Weighted average shares outstanding:			
Basic	39,548	41,961	43,224
Diluted	39,862	42,322	43,540
Total other comprehensive income, net of tax:			
Foreign currency translation	\$ 175	\$ (263)	\$ 631
Comprehensive income	\$ 33,804	\$ 30,528	\$ 20,470

See accompanying notes to consolidated financial statements

## TRUEBLUE, INC.

## CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY

FISCAL YEARS ENDED DECEMBER 28, 2012, DECEMBER 30, 2011 AND DECEMBER 31, 2010

In Thousands

	Common stock		Retained earnings	Accumulated other comprehensive income	Total shareholders' equity
	Shares	Amount			
<b>Balances, December 25, 2009</b>	<b>43,833</b>	<b>\$ 1</b>	<b>\$ 283,156</b>	<b>\$ 2,275</b>	<b>\$ 285,432</b>
Net income			19,839		19,839
Foreign currency translation, net of tax				631	631
Issuances under equity plans, including tax benefits	253		(354)		(354)
Stock-based compensation			7,159		7,159
<b>Balances, December 31, 2010</b>	<b>44,086</b>	<b>\$ 1</b>	<b>\$ 309,800</b>	<b>\$ 2,906</b>	<b>\$ 312,707</b>
Net income			30,791		30,791
Foreign currency translation, net of tax				(263)	(263)
Purchases and retirement of common stock	(4,455)		(56,932)		(56,932)
Issuances under equity plans, including tax benefits	302		(156)		(156)
Stock-based compensation			7,432		7,432
<b>Balances, December 30, 2011</b>	<b>39,933</b>	<b>\$ 1</b>	<b>\$ 290,935</b>	<b>\$ 2,643</b>	<b>\$ 293,579</b>
Net income			33,629		33,629
Foreign currency translation, net of tax				175	175
Purchases and retirement of common stock	(306)		(4,386)		(4,386)
Issuances under equity plans, including tax benefits	593		2,760		2,760
Stock-based compensation			7,917		7,917
<b>Balances, December 28, 2012</b>	<b>40,220</b>	<b>\$ 1</b>	<b>\$ 330,855</b>	<b>\$ 2,818</b>	<b>\$ 333,674</b>

See accompanying notes to consolidated financial statements



## TRUEBLUE, INC.

## CONSOLIDATED STATEMENTS OF CASH FLOWS

FISCAL YEARS ENDED DECEMBER 28, 2012, DECEMBER 30, 2011 AND DECEMBER 31, 2010

In Thousands

	2012	2011	2010
Cash flows from operating activities:			
Net income	\$ 33,629	\$ 30,791	\$ 19,839
Adjustments to reconcile net income to net cash from operating activities:			
Depreciation and amortization	18,890	16,384	16,468
Provision for doubtful accounts	6,994	6,638	8,158
Stock-based compensation	7,917	7,432	7,159
Deferred income taxes	3,091	(1,910)	5,322
Other operating activities	1,946	(473)	(202)
Changes in operating assets and liabilities:			
Accounts receivable	(20,408)	(51,824)	(11,604)
Income taxes	(3,748)	3,513	(3,338)
Other assets	(1,214)	(1,244)	(727)
Accounts payable and other accrued expenses	1,524	5,423	747
Accrued wages and benefits	(182)	10,793	2,752
Workers' compensation claims reserve	3,746	4,537	(2,195)
Other liabilities	138	529	(406)
Net cash provided by operating activities	52,323	30,589	41,973
Cash flows from investing activities:			
Capital expenditures	(17,826)	(9,707)	(7,050)
Change in restricted cash and cash equivalents	7,587	68,504	3,945
Purchases of restricted investments	(33,778)	(88,173)	—
Maturities of restricted investments	18,116	9,238	—
Other	(250)	(6,800)	(298)
Net cash used in investing activities	(26,151)	(26,938)	(3,403)
Cash flows from financing activities:			
Purchases and retirement of common stock	(4,386)	(56,932)	—
Net proceeds from stock option exercises and employee stock purchase plans	4,164	1,131	1,054
Common stock repurchases for taxes upon vesting of restricted stock	(2,154)	(1,776)	(1,568)
Payments on other liabilities	(4,548)	(302)	(382)
Other	751	664	129
Net cash used in financing activities	(6,173)	(57,215)	(767)
Effect of exchange rates on cash	203	(278)	973
Net change in cash and cash equivalents	20,202	(53,842)	38,776
CASH AND CASH EQUIVALENTS, beginning of period	109,311	163,153	124,377
CASH AND CASH EQUIVALENTS, end of period	\$ 129,513	\$ 109,311	\$ 163,153

See accompanying notes to consolidated financial statements

**Notes to Consolidated Financial Statements**

**NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

***Description of business***

TrueBlue, Inc. (“TrueBlue,” “we,” “us,” “our”) is the leader in temporary blue-collar staffing services. We provide a wide range of specialized blue-collar staffing services. We operate as: Labor Ready for general labor, Spartan Staffing for light industrial services, CLP Resources for skilled trades, PlaneTechs for aviation and diesel mechanics and technicians, and Centerline Drivers for dedicated and temporary drivers. We have a network of 691 branches in all 50 states, Puerto Rico and Canada, customer on-site locations generally dedicated to one customer, and national service centers which supply our customers with temporary workers.

We began operations in 1989 under the name Labor Ready, Inc. providing on-demand, general labor staffing services. We became a public company in 1995. In 2004 we began acquiring additional brands to expand our service offerings to customers in the blue-collar staffing market. Effective December 18, 2007, Labor Ready, Inc. changed its name to TrueBlue, Inc. We are headquartered in Tacoma, Washington.

***Basis of presentation***

The consolidated financial statements include the accounts of TrueBlue, Inc. and all of its wholly-owned subsidiaries. All significant intercompany balances and transactions have been eliminated in consolidation. The consolidated financial statements and accompanying notes are prepared in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP”).

TrueBlue operations are one reportable segment. Our operations are all in the blue-collar staffing market of the temporary staffing industry and focus on supplying customers with temporary workers. All our brands have the following similar characteristics:

- They provide blue-collar temporary labor services;
- They serve customers who have a need for temporary staff to perform tasks which do not require a permanent employee;
- They each build a temporary workforce through recruiting, screening and hiring. Temporary workers are dispatched to customers where they work under the supervision of our customers;
- They each drive profitability by managing the bill rates to our customers and the pay rates to our workers. Profitable growth is also driven by leveraging our cost structure across all brands.

Our long-term financial performance expectations of all our brands are similar as are the underlying financial and economic metrics used to manage those brands.

Our international operations are not significant to our total operations for segment reporting purposes. Total revenues from our international operations were 3.5%, 3.8% and 3.8% of our total revenue for fiscal years ended 2012, 2011 and 2010, respectively.

***Fiscal year end***

Our fiscal year ends on the last Friday of December. Fiscal 2010 included 53 weeks; the final quarter consisted of 14 weeks.

***Use of estimates***

Preparing financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses. Examples include, but are not limited to, allowance for doubtful accounts, estimates for asset and goodwill impairments, stock-based performance awards, assumptions underlying self-insurance reserves, and the potential outcome of future tax consequences of events that have been recognized in the financial statements. Actual results and outcomes may differ from these estimates and assumptions.

***Revenue recognition***

Revenue from temporary staffing services is recognized at the time the service is provided and is net of adjustments related to customer credits. Revenue also includes cash dispensing machine fees, billable travel, and other reimbursable costs. Customer discounts or other incentives are recognized in the period the related revenue is earned. We discontinued the use of all domestic cash dispensing machines in fiscal 2012. Revenues are reported net of sales, use or other transaction taxes collected from customers and remitted to taxing authorities.

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**Notes to Consolidated Financial Statements—(Continued)**

We record revenue on a gross basis as a principal versus on a net basis as an agent in the consolidated statement of operations. We have determined that gross reporting as a principal is the appropriate treatment based upon the following key factors:

- We maintain the direct contractual relationship with the customer.
- We have discretion in selecting and assigning the temporary workers to particular jobs and establishing their billing rate.
- We bear the risk and rewards of the transaction including credit risk if the customer fails to pay for services performed.

***Cost of services***

Cost of services primarily includes wages of temporary workers and related payroll taxes and workers' compensation expenses. Cost of services also includes billable travel and other reimbursable costs.

***Advertising costs***

Advertising costs consist primarily of print and other promotional activities. We expense advertisements as of the first date the advertisements take place. Advertising expenses included in selling, general and administrative expenses were \$3.7 million, \$3.6 million and \$3.3 million in 2012, 2011 and 2010, respectively.

***Cash and cash equivalents***

We consider all highly liquid instruments purchased with an original maturity of three months or less at date of purchase to be cash equivalents.

***Accounts receivable and allowance for doubtful accounts***

Accounts receivable are recorded at the invoiced amount together with interest for certain past due accounts. We establish an allowance for doubtful accounts for estimated losses resulting from the failure of our customers to make required payments. The allowance for doubtful accounts is determined based on current collection efforts, historical collection trends, write-off experience, customer credit risk, and current economic data. The allowance for doubtful accounts is reviewed quarterly and represents our best estimate of the amount of probable credit losses. Past due balances are written-off when it is probable the receivable will not be collected. Our allowance for doubtful accounts was \$5.0 million and \$5.8 million as of December 28, 2012 and December 30, 2011, respectively.

***Restricted cash and investments***

Cash and investments pledged as collateral and restricted to use for workers' compensation insurance programs are included as restricted cash and investments in our Consolidated Balance Sheets. Our investments consist of highly rated investment grade debt securities which are rated A or higher by Nationally Recognized Statistical Rating Organizations. We have the positive intent and ability to hold all these investments until maturity and accordingly all of our investments are classified as held-to-maturity. In the event that an investment is downgraded, it is replaced with a highly rated investment grade security. We review for impairment on a quarterly basis and do not consider temporary unrealized losses to be impaired.

On March 11, 2011, we entered into an agreement with The Bank of New York Mellon as escrow agent and National Union Fire Insurance Company of Pittsburgh, PA on behalf of itself and its insurance company affiliates including but not limited to AIG, formerly known as Chartis Casualty Company (Chartis). The agreement creates a trust (the "Trust") at The Bank of New York Mellon which holds the majority of our collateral obligations under existing workers' compensation insurance policies that were previously held directly by AIG. Placing the collateral in the Trust allows us to manage the investment of the assets and provides greater protection of those assets.

***Fair value of financial instruments and investments***

The carrying value of cash and cash equivalents and restricted cash approximates fair value because of the short-term maturity of those instruments. The fair value of our restricted investments is based upon the quoted market price on the last business day of the fiscal reporting period. Where an observable quoted market price for a security does not exist, we estimate fair value using a variety of valuation methodologies, which include observable inputs for comparable instruments and unobservable inputs. There are inherent limitations when estimating the fair value of financial instruments and the fair values reported are not necessarily indicative of the amounts that would be realized in current market transactions.

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**Notes to Consolidated Financial Statements—(Continued)*****Property and equipment***

Property and equipment are recorded at cost. We compute depreciation using the straight-line method over the estimated useful lives of the assets.

	<b>Years</b>
Buildings	40
Computers and software	3 - 10
Furniture and equipment	3 - 10

Leasehold improvements are amortized over the shorter of the related non-cancelable lease term, which is typically 90 days, or their estimated useful lives.

Non-capital expenditures associated with opening new branch locations are expensed as incurred.

When property is retired or otherwise disposed of, the cost and accumulated depreciation are removed from the accounts and any resulting gain or loss is reflected in the Consolidated Statements of Operations & Comprehensive Income.

Repairs and maintenance costs are charged directly to expense as incurred. Major renewals or replacements that substantially extend the useful life of an asset are capitalized and depreciated.

Costs associated with the acquisition or development of software for internal use are capitalized and amortized over the expected useful life of the software, from three to ten years. A subsequent addition, modification or upgrade to internal-use software is capitalized to the extent that it enhances the software's functionality or extends its useful life. Software maintenance and training costs are expensed in the period incurred.

Property under capital lease is comprised of software used in our operations and corporate support functions. The related amortization for capital lease assets is included in amortization expense in the Consolidated Statements of Operations & Comprehensive Income.

***Leases***

We conduct our branch office operations from leased locations. The leases require payment of real estate taxes, insurance and common area maintenance, in addition to rent. The terms of our lease agreements generally range from three to five years with options to cancel with 90 day notification. Most of the leases contain renewal options and escalation clauses.

For leases that contain predetermined fixed escalations of the minimum rent, we recognize the related rent expense on a straight-line basis from the date we take possession of the property to the end of the minimum lease term. We record any difference between the straight-line rent amounts and amounts payable under the leases as part of deferred rent, in accrued liabilities or long-term liabilities, as appropriate.

Cash or lease incentives received upon entering into certain branch leases ("tenant allowances") are recognized on a straight-line basis as a reduction to rent from the date we take possession of the property through the end of the initial lease term. We record the unamortized portion of tenant allowances as a part of deferred rent, in accrued liabilities or long-term liabilities, as appropriate.

We also lease certain equipment and software under non-cancelable operating and capital leases. Assets acquired under capital leases are depreciated and amortized over the shorter of the useful life of the asset or the lease term, including renewal periods, if reasonably assured.

***Goodwill and intangible assets***

Goodwill is the excess of the purchase price over the fair value of identifiable net assets acquired in business combinations. We allocated goodwill to reporting units based on the reporting units that are expected to benefit from the business combination. We do not amortize goodwill but test it for impairment annually as of the last day of our fiscal third quarter, or when indications of potential impairment exist. We monitor the existence of potential impairment indicators throughout the fiscal year.

We test for goodwill impairment at the reporting unit level. We consider our brands Labor Ready, Spartan Staffing, CLP Resources, PlaneTechs and Centerline to be reporting units for goodwill impairment testing. In fiscal 2012, 2011 and 2010, there were no changes to our reporting units. The impairment test involves comparing the fair value of each reporting unit to its carrying value, including goodwill. Fair value reflects the price a market participant would be willing to pay in a potential sale of the reporting unit. If the fair value exceeds carrying value, then we conclude that no goodwill impairment has occurred. If the carrying value

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**Notes to Consolidated Financial Statements—(Continued)**

of the reporting unit exceeds its fair value, a second step is required to measure possible goodwill impairment loss. The second step includes hypothetically valuing the tangible and intangible assets and liabilities of the reporting unit as if the reporting unit had been acquired in a business combination. Then, the implied fair value of the reporting unit's goodwill is compared to the carrying value of that goodwill. If the carrying value of the reporting unit's goodwill exceeds the implied fair value of the goodwill, we recognize an impairment loss in an amount equal to the excess, not to exceed the carrying value. We determine the fair value of each reporting unit using a discounted cash flow model.

Considerable management judgment is necessary to evaluate the impact of operating and macroeconomic changes on each reporting unit. Critical assumptions include projected revenue growth, gross profit rates, selling, general and administrative expense rates, working capital fluctuations, capital expenditures and terminal growth rates, as well as an appropriate risk adjusted discount rate. Discount rates are determined using the capital asset pricing model.

The blue-collar staffing market is subject to volatility based on overall economic conditions. As a consequence, our revenues tend to increase quickly when the economy begins to grow, as occurred during 2011. Conversely, our revenues also decrease quickly when the economy begins to weaken, as occurred during the most recent recession. If actual results were to significantly deviate from management's estimates and assumptions of future performance, we could experience a material impairment to our goodwill.

We also use comparable market earnings multiple data and our company's market capitalization to corroborate our reporting unit valuations. We base fair value estimates on assumptions we believe to be reasonable but that are unpredictable and inherently uncertain. Actual future results may differ from those estimates.

We have indefinite-lived intangible assets related to our CLP Resources and Spartan Staffing trade names. We test our indefinite-lived intangible assets annually for impairment, or when indications of potential impairment exist. We utilize the relief from royalty method to determine the fair value of each of our trade names. If the carrying value exceeds the fair value, we recognize an impairment loss in an amount equal to the excess. Considerable management judgment is necessary to determine key assumptions, including projected revenue, royalty rates and appropriate discount rates.

***Long-lived asset impairment***

Long-lived assets include property and equipment and definite-lived intangible assets. Definite-lived intangible assets consist of customer relationships, trade names and non-compete agreements. Long-lived assets are tested for impairment whenever events or changes in circumstances indicate that the carrying value of the assets may not be recoverable. Factors considered important that could result in an impairment review include, but are not limited to, significant underperformance relative to historical or planned operating results, significant changes in the manner of use of the assets or significant changes in our business strategies. Long-lived assets are grouped at the lowest level at which identifiable cash flows are largely independent when assessing impairment. Our branch assets, including property and equipment, and customer relationship intangibles, are grouped and evaluated at the individual branch level. All other property and equipment and definite-lived intangibles are grouped at either the brand or corporate level as appropriate based on the identifiable cash flows. An impairment loss is recognized when the estimated undiscounted cash flows expected to result from the use of the asset plus net proceeds expected from disposition of the asset (if any) are less than the carrying value of the asset. When an impairment loss is recognized the carrying amount of the asset is reduced to its estimated fair value based on quoted market prices or other valuation techniques (e.g., discounted cash flow analysis). Considerable management judgment is necessary to estimate future after-tax cash flows, including cash flows from continuing use and terminal value. Accordingly, actual future results could vary from our estimates.

***Branch closures and exit costs***

We routinely evaluate our branch network and close under-performing branches. We classify closed branches in discontinued operations when the operations and cash flows of the branch have been or will be eliminated from ongoing operations. To determine if cash flows have been or will be eliminated from ongoing operations, we evaluate a number of qualitative and quantitative factors, including, but not limited to, proximity to remaining open branches and estimates of revenue migration from the closed branch to any branch remaining open. The estimated revenue migration is based on historical estimates of our revenue migration upon opening or closing a branch in a similar market. Branch closings meeting the criteria for discontinued operations were not material individually or cumulatively for any reporting year presented. Assets related to planned branch closures or other exit activities are evaluated for impairment in accordance with our impairment policy, giving consideration to revised estimates of future cash flows.

***Workers' compensation reserves***

We maintain reserves for workers' compensation claims using actuarial estimates of the future cost of claims and related expenses. These estimates include claims that have been reported but not settled and claims that have been incurred but not reported. These reserves, which reflect potential liabilities to be paid in future periods based on estimated payment patterns, are discounted to

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**Notes to Consolidated Financial Statements—(Continued)**

estimated net present value using discount rates based on average returns of “risk-free” U.S. Treasury instruments, which are evaluated on a quarterly basis. We evaluate the reserves regularly throughout the year and make adjustments accordingly. If the actual cost of such claims and related expenses exceed the amounts estimated, additional reserves may be required. Changes in reserve estimates are reflected in the Consolidated Statements of Operations & Comprehensive Income in the period when the changes in estimates are made.

Our workers’ compensation reserves include estimated expenses related to claims above our self-insured limits (“excess claims”) and a corresponding receivable for the insurance coverage on excess claims based on the contractual policy agreements we have with insurance companies. We discount the liability and its corresponding receivable to its estimated net present value using the “risk-free” rates associated with the actuarially determined weighted average lives of our excess claims. When appropriate, based on our best estimate, we record a valuation allowance against the insurance receivable to reflect amounts that may not be realized.

***Reserves for contingent legal and regulatory liabilities***

From time to time we are subject to compliance audits by federal, state and local authorities relating to a variety of regulations including wage and hour laws, taxes, workers’ compensation, immigration and safety. From time to time we are also subject to legal proceedings in the ordinary course of our operations. We establish reserves for contingent legal and regulatory liabilities when our management judges that it is probable that a legal claim will result in an adverse outcome and the amount of liability can be reasonably estimated. To the extent that an insurance company is contractually obligated to reimburse us for a liability, we record a receivable for the amount of the probable reimbursement. We evaluate our reserve regularly throughout the year and make adjustments as needed. If the actual outcome of these matters is different than expected, an adjustment is charged or credited to expense in the period the outcome occurs or the period in which the estimate changes.

***Income taxes and related valuation allowance***

We account for income taxes by recording taxes payable or receivable for the current year and deferred tax assets and liabilities for the future tax consequences of events that have been recognized in our financial statements or tax returns. These expected future tax consequences are measured based on provisions of tax law as currently enacted; the effects of future changes in tax laws are not anticipated. Future tax law changes, such as changes to the federal and state corporate tax rates and the mix of states and their taxable income, could have a material impact on our financial condition or results of operations. When appropriate, we record a valuation allowance against deferred tax assets to offset future tax benefits that may not be realized. In determining whether a valuation allowance is appropriate, we consider whether it is more likely than not that all or some portion of our deferred tax assets will not be realized, based in part upon management’s judgments regarding future events and past operating results. Based on that analysis, we have determined that a valuation allowance is appropriate for certain foreign net operating losses that we expect will not be utilized within the permitted carry forward periods as of December 28, 2012 and December 30, 2011. See Note 11 for further discussion.

***Stock-based compensation***

Under various plans, officers, employees and non-employee directors have received or may receive grants of stock, restricted stock awards, performance share units or options to purchase common stock. We also have an employee stock purchase plan (“ESPP”).

Compensation expense for restricted stock and stock units is generally recognized on a straight-line basis over the vesting period, based on the stock’s fair market value on the grant date. For restricted stock grants issued with performance conditions, compensation expense is recognized over each vesting tranche. We recognize compensation expense for only the portion of restricted stock and stock units that is expected to vest, rather than record forfeitures when they occur. If the actual number of forfeitures differs from those estimated by management, additional adjustments to compensation expense may be required in the future periods. We determine the fair value of options to purchase common stock using the Black-Scholes valuation model, which requires the input of subjective assumptions. We recognize expense over the service period for options that are expected to vest and record adjustments to compensation expense at the end of the service period if actual forfeitures differ from original estimates.

***Foreign currency***

Cumulative foreign currency translation adjustments relate to our consolidated foreign subsidiary. Assets and liabilities recorded in foreign currencies are translated at the applicable exchange rate on the balance sheet date. Revenue and expenses are translated at average rates of exchange prevailing during the year.

***Purchases and retirement of our common stock***

Purchases of our common stock are not displayed separately as treasury stock on the Consolidated Balance Sheets in accordance with the Washington Business Corporation Act, which requires the retirement of purchased shares. As a result, shares of our

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**Notes to Consolidated Financial Statements—(Continued)**

common stock that we purchase are retired immediately. It is our accounting policy to first record these purchases as a reduction to our Common stock account. Once the Common stock account has been reduced to a nominal balance, remaining purchases are recorded as a reduction to our Retained earnings account. Furthermore, activity in our common stock account related to stock-based compensation is also recorded to Retained earnings until such time as the reduction to Retained earnings due to stock repurchases has been recovered. See Note 9 and Note 10 for further discussion of share purchases and stock-based compensation, respectively.

***Shares outstanding***

Shares outstanding include shares of unvested restricted stock. Unvested restricted stock included in reportable shares outstanding was 0.6 million and 0.7 million shares as of December 28, 2012 and December 30, 2011, respectively. Shares of unvested restricted stock are excluded from our calculation of basic weighted average shares outstanding, but their dilutive impact is added back in the calculation of diluted weighted average shares outstanding.

***Recently Adopted Accounting Standards***

During the first quarter of 2012, we adopted the accounting standard regarding the presentation of comprehensive income. This standard was issued to increase the prominence of items reported in other comprehensive income. We have presented all non owner changes in shareholders' equity in a single, continuous statement in our financial statements as "Consolidated Statements of Operations & Comprehensive Income." The standard does not change the following: items that must be reported in other comprehensive income, when an item of other comprehensive income must be reclassified to net income, the requirement to disclose the tax effect for each component of other comprehensive income or how earnings per share is calculated or presented. Our comprehensive income includes primarily foreign currency translation. The adoption of this standard in the first quarter of 2012 impacted our financial statement presentation only.

***Recent Accounting Guidance not yet Effective***

In July 2012, the Financial Accounting Standards Board issued guidance on testing indefinite-lived intangibles for impairment. The new guidance provides an entity the option to first perform a qualitative assessment to determine whether it is more likely than not that the fair value of its indefinite-lived intangible assets are less than their carrying amounts. If an entity determines that it is more likely than not that the fair value of each asset exceeds its carrying amount, it would not need to calculate the fair value of the asset in that year. If the entity concludes otherwise, it is required to perform an impairment test comparing the carrying value of the intangible asset with its fair value and recognize an impairment loss if necessary. The new guidance will be effective for us beginning in our fiscal year 2013 and early adoption is permitted.

**NOTE 2: FAIR VALUE  
MEASUREMENT**

Fair value is the price that would be received to sell an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. We apply a fair value hierarchy that prioritizes the inputs used to measure fair value:

- Level 1: Inputs are valued using quoted market prices in active markets for identical assets or liabilities. Our Level 1 assets primarily include cash and cash equivalents, mutual funds and United States Treasury Securities.
- Level 2: Inputs are valued based upon quoted prices for similar instruments in active markets or quoted prices for identical or similar instruments in markets that are not active. Our Level 2 assets are restricted investments which primarily consist of Municipal Securities, Corporate Securities, U.S. Agency Mortgages and U.S. Agency Debentures. We obtain our inputs from quoted market prices and independent pricing vendors.
- Level 3: Inputs are generally unobservable and typically reflect management's estimates of assumptions that market participants would use in pricing the asset or liability. We currently have no Level 3 assets or liabilities.

The carrying value of our cash and cash equivalents, restricted cash and accounts receivable approximates fair value due to their short term nature. We also hold certain restricted investments which collateralize workers' compensation programs and are classified as held-to-maturity and carried at amortized cost on our Consolidated Balance Sheets. There are inherent limitations when estimating the fair value of financial instruments and the fair values reported are not necessarily indicative of the amounts that would be realized in current market transactions.

**Notes to Consolidated Financial Statements—(Continued)**

The following table presents the fair value and hierarchy for our cash equivalents and restricted investments (in millions):

	December 28, 2012	December 30, 2011
<b>Level 1:</b>		
Cash equivalents (1)	\$ 94.6	\$ 55.5
Restricted cash equivalents (1)	26.8	31.2
Restricted investments classified as held-to-maturity (2)	—	1.0
Other restricted investments (3)	3.5	2.2
<b>Level 2:</b>		
Restricted investments classified as held-to-maturity (4)	92.7	78.0

- (1) Cash equivalents and restricted cash equivalents consist of money market funds, deposits and investments with original maturities of three months or less.
- (2) Level 1 restricted investments classified as held-to-maturity consist of United States Treasury Securities.
- (3) Level 1 other restricted investments consist of deferred compensation investments which are comprised of mutual funds. We have an equal and offsetting accrued liability related to the deferred compensation plan.
- (4) Level 2 restricted investments classified as held-to-maturity consist of Municipal Securities, Corporate Securities, U.S. Agency Mortgages and U.S. Agency Debentures.

**NOTE 3: RESTRICTED CASH AND INVESTMENTS**

Restricted cash and investments consist principally of collateral that has been provided or pledged to insurance carriers for workers' compensation and state workers' compensation programs. Our insurance carriers and certain state workers' compensation programs require us to collateralize a portion of our workers' compensation obligation. The collateral typically takes the form of cash and cash equivalents and highly rated investment grade securities, primarily in U.S. Treasury Securities, U.S. Agency Debentures, U.S. Agency Mortgages, Corporate Securities and Municipal Securities. The majority of our collateral obligations are held in a trust ("Trust") at the Bank of New York Mellon.

The following is a summary of restricted cash and investments (*in millions*):

	December 28, 2012	December 30, 2011
Cash collateral held by insurance carriers	\$ 21.5	\$ 21.3
Cash and cash equivalents held in Trust (1)	14.8	19.2
Investments held in Trust	91.2	78.0
Cash collateral backing letters of credit	1.8	5.9
Other (2)	7.0	6.1
Total restricted cash and investments	<u>\$ 136.3</u>	<u>\$ 130.5</u>

- (1) Included in this amount is \$0.9 million and \$0.8 million of accrued interest at December 28, 2012 and December 30, 2011, respectively.
- (2) Primarily consists of restricted cash in money market accounts and deferred compensation plan accounts which are comprised of mutual funds.

The following tables present fair value disclosures for our held-to-maturity investments which are carried at amortized cost (*in millions*):

	December 28, 2012			
	Amortized Cost	Gross Unrealized Gain	Gross Unrealized Loss	Fair Value
Municipal securities	\$ 57.3	\$ 1.0	\$ (0.1)	\$ 58.2
Corporate bonds	17.9	0.3	—	18.2
Asset backed bonds	16.0	0.3	—	16.3
	<u>\$ 91.2</u>	<u>\$ 1.6</u>	<u>\$ (0.1)</u>	<u>\$ 92.7</u>



Notes to Consolidated Financial Statements—(Continued)

	December 30, 2011			
	Amortized Cost	Gross Unrealized Gain	Gross Unrealized Loss	Fair Value
Municipal securities	\$ 42.8	\$ 0.8	\$ (0.1)	\$ 43.5
Corporate bonds	16.1	0.2	—	16.3
Asset backed bonds	13.6	0.1	—	13.7
State government and agency securities	4.5	—	—	4.5
United States Treasury securities	1.0	—	—	1.0
	<u>\$ 78.0</u>	<u>\$ 1.1</u>	<u>\$ (0.1)</u>	<u>\$ 79.0</u>

The amortized cost and fair value by contractual maturity of our held-to-maturity investments are as follows (*in millions*):

	December 28, 2012	
	Amortized Cost	Fair Value
Due in one year or less	\$ 11.8	\$ 11.8
Due after one year through five years	43.3	44.1
Due after five years through ten years	36.1	36.8
	<u>\$ 91.2</u>	<u>\$ 92.7</u>

Actual maturities may differ from contractual maturities because the issuers of certain debt securities have the right to call or prepay their obligations without penalty.

**NOTE 4: PROPERTY AND EQUIPMENT, NET**

Property and equipment are stated at cost and consist of the following (*in millions*):

	December 28, 2012	December 30, 2011
Buildings and land	\$ 25.9	\$ 24.5
Computers and software	91.7	80.5
Cash dispensing machines	1.0	4.5
Furniture and equipment	8.9	8.7
Construction in progress	7.7	3.6
	135.2	121.8
Less accumulated depreciation and amortization	(77.0)	(65.6)
	<u>\$ 58.2</u>	<u>\$ 56.2</u>

Capitalized software costs, net of accumulated amortization, were \$30.9 million and \$34.5 million as of December 28, 2012 and December 30, 2011, respectively, excluding amounts in Construction in progress. Construction in progress consists primarily of purchased and internally developed software.

Depreciation and amortization of property and equipment totaled \$15.8 million, \$13.5 million and \$13.8 million for 2012, 2011 and 2010, respectively.

**NOTE 5: GOODWILL AND INTANGIBLE ASSETS**

There have been no significant changes in the carrying amount of goodwill for the fiscal year ended December 28, 2012. We completed two acquisitions during 2011 for a total purchase price of \$17.4 million of which \$6.4 million remains to be paid in the future and \$4.6 million was paid in 2012. The assets acquired and liabilities assumed were recorded at the date of acquisition at their respective estimated fair values. Assets acquired included finite-lived intangible assets of \$1.8 million with an estimated weighted average useful life of 4.6 years. The excess of the purchase price over the estimated fair values of the net assets acquired in the amount of \$11.2 million was recorded as goodwill, is entirely deductible for tax purposes, and is primarily due to synergies with our existing business and also the assembled workforce, future technologies and potential new customers. These acquisitions were not individually or in the aggregate material to our consolidated results of operations and as such, pro forma financial statements were not required.

Notes to Consolidated Financial Statements—(Continued)

Changes in the carrying amount of goodwill were as follows (in millions):

	December 28, 2012	December 30, 2011
Goodwill prior to impairment	\$ 94.3	\$ 83.1
Accumulated impairment losses	(46.2)	(46.1)
<b>Beginning Balance - net</b>	<b>48.1</b>	<b>37.0</b>
Goodwill acquired during the year	—	11.2
<b>Ending balance - net</b>	<b>\$ 48.1</b>	<b>\$ 48.2</b>

Intangible assets other than goodwill are broken out separately on our Consolidated Balance Sheets for 2012 and 2011. The following table presents our purchased intangible assets other than goodwill (in millions):

	December 28, 2012			December 30, 2011		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
<b>Amortizable intangible assets (1):</b>						
Customer relationships	\$ 19.1	\$ (10.5)	\$ 8.6	\$ 19.1	\$ (8.3)	\$ 10.8
Trade name/trademarks	3.5	(1.6)	1.9	3.3	(1.3)	2.0
Non-compete agreements	1.8	(1.4)	0.4	2.5	(1.7)	0.8
	<u>\$ 24.4</u>	<u>\$ (13.5)</u>	<u>\$ 10.9</u>	<u>\$ 24.9</u>	<u>\$ (11.3)</u>	<u>\$ 13.6</u>
<b>Indefinite-lived intangible assets:</b>						
Trade name/trademarks			<u>\$ 5.7</u>			<u>\$ 5.8</u>

(1) Excludes assets that are fully amortized.

Intangible assets are amortized using the straight-line method over their estimated useful lives. Amortization of our definite-lived intangible assets was \$3.1 million, \$2.9 million and \$2.7 million for 2012, 2011 and 2010, respectively.

The following table provides the estimated future amortization of definite-lived intangible assets at December 28, 2012 (in millions):

2013	\$ 2.7
2014	2.7
2015	2.7
2016	2.3
Thereafter	0.5
	<u>\$ 10.9</u>

Goodwill and indefinite-lived intangible assets are reviewed for impairment annually or when triggering events indicate impairment is more likely than not. Long-lived intangible assets are reviewed for impairment whenever events and circumstances indicate the carrying value may not be recoverable. In fiscal 2012, 2011 and 2010 we identified no material impairments of goodwill or long-lived intangible assets.

**NOTE 6: WORKERS' COMPENSATION INSURANCE AND RESERVES**

We provide workers' compensation insurance for our temporary and permanent employees. The majority of our current workers' compensation insurance policies cover claims for a particular event above a \$2.0 million deductible limit, on a "per occurrence" basis. This results in our being substantially self-insured. For policy years beginning in July 2003 and after, AIG, formerly known as Chartis, has been our workers' compensation carrier. The policy year is effective July 1 to June 30 and is subject to annual renewal. We completed our renewal with AIG for the 2012 - 2013 policy year in June. For years prior to 2003, we had coverage with other insurance providers. Furthermore, we have full liability for all further payments on claims that originated between January 2001 and June 2003, without recourse to any third party insurer as the result of a novation agreement we entered into with Kemper Insurance Company in December 2004.

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**Notes to Consolidated Financial Statements—(Continued)**

For workers' compensation claims originating in Washington, North Dakota, Ohio, Wyoming, Canada and Puerto Rico (our "monopolistic jurisdictions"), we pay workers' compensation insurance premiums and obtain full coverage under government-administered programs (with the exception of our Labor Ready brand in the state of Ohio where we have a self-insured policy). Accordingly, because we are not the primary obligor, our financial statements do not reflect the liability for workers' compensation claims in these monopolistic jurisdictions.

Our workers' compensation reserve is established using estimates of the future cost of claims and related expenses that have been reported but not settled, as well as those that have been incurred but not reported. Our workers' compensation reserve for claims below the deductible limit is discounted to its estimated net present value using discount rates based on average returns of "risk-free" U.S. Treasury instruments available during the year in which the liability was incurred. At December 28, 2012, the weighted average rate was 2.4%. The claim payments are made over an estimated weighted average period of approximately 5.5 years. As of December 28, 2012 and December 30, 2011, the discounted workers' compensation claims reserves were \$195.6 million and \$191.8 million, respectively.

Our workers' compensation reserve includes estimated expenses related to claims above our deductible limits ("excess claims"), and we record a corresponding receivable for the insurance coverage on excess claims based on the contractual policy agreements we have with insurance carriers. We discount this reserve and corresponding receivable to its estimated net present value using the discount rates based on average returns of "risk-free" U.S. Treasury instruments available during the year in which the liability was incurred. At December 28, 2012, the weighted average rate was 4.4%. The claim payments are made and the corresponding reimbursements from our insurance carriers are received over an estimated weighted average period of approximately 19.7 years. The discounted workers' compensation reserve for excess claims and the corresponding receivable for the insurance on excess claims were \$27.1 million and \$27.4 million as of December 28, 2012 and December 30, 2011, respectively.

Two of the workers' compensation insurance companies ("Troubled Insurance Companies") with which we formerly did business are in liquidation and have failed to pay a number of excess claims to date. These excess claims have been presented to the state guaranty funds of the states in which the claims originated. Some of these excess claims have been rejected by the state guaranty funds due to statutory eligibility limitations. We have recorded a valuation allowance of \$5.6 million and \$7.3 million against all receivables from Troubled Insurance Companies as of December 28, 2012 and December 30, 2011, respectively. Total discounted receivables from insurance companies, net of the valuation allowance, as of December 28, 2012 and December 30, 2011 were \$21.4 million and \$20.1 million, respectively and were included in Other assets, net in the accompanying Consolidated Balance Sheets.

Management evaluates the adequacy of the workers' compensation reserves in conjunction with an independent quarterly actuarial assessment. Factors considered in establishing and adjusting these reserves include, among other things:

- Changes in medical and time loss ("indemnity") costs;
- Mix changes between medical only and indemnity claims;
- Regulatory and legislative developments that have increased benefits and settlement requirements;
- Type and location of work performed;
- The impact of safety initiatives; and
- Positive or adverse development of claim reserves.

Workers' compensation expense totaling \$52.3 million, \$51.2 million and \$43.3 million was recorded for 2012 and 2011, 2010 respectively. Workers' compensation expense consists of: self-insurance reserves net of changes in discount; monopolistic jurisdictions' premiums; insurance premiums; changes in the valuation allowance related to receivables from the Troubled Insurance Companies as described above; and other miscellaneous expenses.

**NOTE 7: COMMITMENTS AND CONTINGENCIES*****Revolving credit facility***

We have a credit agreement with Bank of America, N.A. and Wells Fargo Capital Finance, LLC for a secured revolving credit facility of up to a maximum of \$80 million (the "Revolving Credit Facility"). The Revolving Credit Facility expires in September 2016.

The maximum amount we can borrow under the Revolving Credit Facility is subject to certain borrowing limits. Specifically, we are limited to the sum of 85% of our eligible accounts receivable and the liquidation value of our Tacoma headquarters office building not to exceed \$15 million, which is reduced quarterly by \$0.4 million. As of December 28, 2012, the Tacoma headquarters

**Notes to Consolidated Financial Statements—(Continued)**

office building liquidation value totaled \$13.5 million. The borrowing limit is further reduced by the sum of a reserve in an amount equal to the payroll and payroll taxes for our temporary employees for one payroll cycle and other reserves if deemed applicable. As of December 28, 2012, the maximum \$80 million was available and letters of credit in the amount of \$7.2 million had been issued against the facility, leaving an unused portion of \$72.8 million. The letters of credit collateralize a portion of our workers' compensation obligation.

The Revolving Credit Facility requires that we maintain liquidity in excess of \$12 million. We are required to satisfy a fixed charge coverage ratio in the event we do not meet that requirement. Liquidity is defined as the amount we are entitled to borrow as advances under the Revolving Credit Facility plus the amount of cash and cash equivalents held in accounts subject to a control agreement benefiting the lenders. The amount we were entitled to borrow at December 28, 2012 was \$72.8 million and the amount of cash and cash equivalents under control agreements was \$128.3 million for a total of \$201.1 million, which is well in excess of the liquidity requirement. We are currently in compliance with all covenants related to the Revolving Credit Facility.

Under the terms of the Revolving Credit Facility, we pay a variable rate of interest on funds borrowed that is based on LIBOR or the Prime Rate, at our option, plus an applicable spread based on excess liquidity as set forth below:

<b>Excess Liquidity</b>	<b>Prime Rate Loans</b>	<b>LIBOR Rate Loans</b>
Greater than \$40 million	0.50%	1.50%
Between \$20 million and \$40 million	0.75%	1.75%
Less than \$20 million	1.00%	2.00%

A fee on borrowing availability of 0.25% is also applied against the unused portion of the Revolving Credit Facility. Letters of credit are priced at the margin in effect for LIBOR loans, plus a fronting fee of 0.125%.

Obligations under the Revolving Credit Facility are secured by substantially all of our domestic personal property and our headquarters located in Tacoma, Washington.

**Workers' compensation commitments**

Our insurance carriers and certain state workers' compensation programs require us to collateralize a portion of our workers' compensation obligation, for which they become responsible should we become insolvent. The collateral typically takes the form of cash and cash equivalents, highly rated investment grade debt securities, letters of credit and/or surety bonds. On a regular basis these entities assess the amount of collateral they will require from us relative to our workers' compensation obligation. The majority of our collateral obligations are held in the Trust at the Bank of New York Mellon.

We have provided our insurance carriers and certain states with commitments in the form and amounts listed below (*n millions*):

	<b>December 28, 2012</b>	<b>December 30, 2011</b>
Cash collateral held by insurance carriers	\$ 21.5	\$ 21.3
Cash and cash equivalents held in Trust (1)	14.8	19.2
Investments held in Trust	91.2	78.0
Letters of credit (2)	9.0	16.7
Surety bonds (3)	16.2	16.2
Total collateral commitments	<u>\$ 152.7</u>	<u>\$ 151.4</u>

- (1) Included in this amount is \$0.9 million and \$0.8 million of accrued interest at December 28, 2012 and December 30, 2011, respectively.
- (2) We have agreements with certain financial institutions to issue letters of credit as collateral. We had \$1.8 million and \$5.9 million of restricted cash collateralizing our letters of credit at December 28, 2012 and December 30, 2011, respectively.
- (3) Our surety bonds are issued by independent insurance companies on our behalf and bear annual fees based on a percentage of the bond, which is determined by each independent surety carrier, but do not exceed 2.0% of the bond amount, subject to a minimum charge. The terms of these bonds are subject to review and renewal every one to four years and most bonds can be canceled by the sureties with as little as 60 days notice.

**Capital leases**

We have property held under non-cancelable capital leases reported in Property and equipment, net on the Consolidated Balance Sheets totaling \$0.1 million and \$0.2 million, net of accumulated depreciation at December 28, 2012 and December 30, 2011,

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**Notes to Consolidated Financial Statements—(Continued)**

respectively. Our capital lease obligations are reported in Other current liabilities in the Consolidated Balance Sheets. Future minimum lease payments under these non-cancelable capital leases as of December 28, 2012 are \$0.1 million for 2013.

**Operating leases**

We have contractual commitments in the form of operating leases related to branch offices and equipment. Future non-cancelable minimum lease payments under our operating lease commitments as of December 28, 2012 are as follows for each of the next five years and thereafter (*n millions*):

2013	\$	6.6
2014		4.5
2015		3.5
2016		2.3
2017		0.7
Thereafter		0.2
	\$	<u>17.8</u>

The majority of operating leases pertaining to our branch offices provide for renewal options ranging from three to five years. Operating leases are generally renewed in the normal course of business, and most of the options are negotiated at the time of renewal. However, for the majority of our leases, both parties to the lease have the right to cancel the lease with 90 days notice. Accordingly, we have not included the leases with 90 day cancellation provisions in our disclosure of future minimum lease payments. Total branch office rent expense for 2012, 2011 and 2010 was \$22.0 million, \$22.1 million and \$22.6 million, respectively.

**Purchase Obligations**

Purchase obligations include agreements to purchase goods and services in the ordinary course of business that are enforceable, legally binding and specify all significant terms. Purchase obligations do not include agreements that are cancelable without significant penalty. We had \$7.5 million of purchase obligations as of December 28, 2012 of which, \$6.9 million are expected to be paid in 2013.

**Legal contingencies and developments**

We are involved in various proceedings arising in the normal course of conducting business. We believe the amounts provided in our financial statements are adequate in consideration of the probable and estimable liabilities. The resolution of those proceedings is not expected to have a material effect on our results of operations or financial condition.

**NOTE 8: PREFERRED STOCK**

We have authorized 20 million shares of blank check preferred stock. The blank check preferred stock is issuable in one or more series, each with such designations, preferences, rights, qualifications, limitations and restrictions as our Board of Directors may determine and set forth in supplemental resolutions at the time of issuance, without further shareholder action.

The initial series of blank check preferred stock authorized by the Board of Directors was designated as Series A Preferred Stock. We had no outstanding shares of preferred stock in any of the years presented.

**NOTE 9: COMMON STOCK**

In July 2011, our Board of Directors approved a program to repurchase \$75 million of our outstanding common stock. As of December 28, 2012, \$35.2 million remained available for repurchase of common stock under the current authorization, which has no expiration date.

Under our authorized stock repurchase program, we repurchased and retired 0.3 million shares of our common stock during 2012 for a total amount of \$4.4 million including commissions. We repurchased and retired 4.5 million shares of our common stock during 2011 for a total amount of \$56.9 million including commissions.

Purchases of our common stock are not displayed separately as treasury stock on the Consolidated Balance Sheets in accordance with the Washington Business Corporation Act, which requires the retirement of purchased shares. As a result, shares of our common stock that we purchase are retired immediately. It is our policy to first record these purchases as a reduction to our Common

**Notes to Consolidated Financial Statements—(Continued)**

stock account. Once the Common stock account has been reduced to a nominal balance, remaining purchases are recorded as a reduction to our Retained earnings account.

**NOTE 10: STOCK-BASED COMPENSATION**

Stock-based compensation includes expense charges for all stock-based awards to employees and directors. Such awards include restricted and unrestricted stock awards, performance share units, stock options, and shares purchased under an employee stock purchase plan (“ESPP”).

Stock-based compensation expense was as follows (*in millions*):

	2012	2011	2010
Restricted and unrestricted stock and performance share units expense	\$ 7.5	\$ 6.7	\$ 5.9
Stock option expense	0.1	0.4	1.0
ESPP expense	0.3	0.3	0.3
Total stock-based compensation expense	<u>\$ 7.9</u>	<u>\$ 7.4</u>	<u>\$ 7.2</u>
Total related tax benefit recognized	<u>\$ 2.9</u>	<u>\$ 2.8</u>	<u>\$ 2.3</u>

No capitalized stock-based compensation was included in Property and equipment, net on the Consolidated Balance Sheets for 2012, 2011 or 2010.

***Restricted and unrestricted stock and performance share units***

Stock-based awards are issued under our 2005 Amended Long-Term Equity Incentive Plan. Restricted stock is granted to executive officers and key employees and vests annually over periods ranging from three to four years. Unrestricted stock granted to our directors vests immediately. Restricted and unrestricted stock-based compensation expense is calculated based on the grant-date market value. We recognize compensation expense on a straight-line basis over the vesting period, net of estimated forfeitures.

Performance share units have been granted to executive officers and certain key employees since 2010. Vesting of the performance share units is contingent upon the achievement of revenue and profitability growth goals at the end of each three year performance period. Each performance share unit is equivalent to a share of common stock. Compensation expense is calculated based on the grant-date market value of our stock and is recognized ratably over the performance period for the performance share units which are expected to vest. Our estimate of the performance units expected to vest is reviewed and adjusted as appropriate each quarter.

Restricted, unrestricted stock and performance share units activity for the year ended December 28, 2012 was as follows (*shares in thousands*):

	Shares	Price (1)
Non-vested at beginning of period	1,266	\$ 13.92
Granted	653	\$ 16.72
Vested	(382)	\$ 13.79
Forfeited	(102)	\$ 13.86
Non-vested at the end of the period	<u>1,435</u>	<u>\$ 15.23</u>

(1) Weighted average market price on grant-date.

As of December 28, 2012, total unrecognized stock-based compensation expense related to non-vested restricted stock was approximately \$7.0 million, of which \$6.3 million is estimated to be recognized over a weighted average period of 1.6 years through 2016. As of December 28, 2012, total unrecognized stock-based compensation expense related to performance share units, assuming achievement of maximum financial goals was approximately \$7.0 million, of which \$2.8 million is currently estimated to be recognized over a weighted average period of 1.9 years through 2015. The total fair value of restricted shares vesting during 2012, 2011 and 2010 was \$5.3 million, \$5.2 million and \$5.4 million, respectively.

***Stock options***

Our 2005 Amended Long-Term Equity Incentive Plan provides for both nonqualified stock options and incentive stock options (collectively, “stock options”) for directors, officers, and certain employees. We issue new shares of common stock upon exercise

**Notes to Consolidated Financial Statements—(Continued)**

of stock options. The majority of our unvested stock options “cliff vest” in three years from the date of grant and expire if not exercised within seven years from the date of grant. The maximum contractual term for our outstanding awards is ten years.

The fair value of each stock option granted is estimated on the grant date using the Black-Scholes valuation model, and the resulting expense is recognized over the requisite service period for each separately vesting portion of the award. The assumptions used to calculate the fair value of options granted reflect market conditions and our experience. Compensation expense is recognized only for those options expected to vest, with forfeitures estimated based on our historical experience and future expectations.

There were no stock options granted during 2012 and 2011. A summary of the weighted average assumptions and results for options granted during 2010 is as follows:

	<b>2010</b>
Expected life (in years)	3.36
Expected volatility	59.6 %
Risk-free interest rate	1.3 %
Expected dividend yield	— %
Weighted average fair value of options granted during the period	\$ 6.24

Stock option activity was as follows (*shares in thousands*):

	<b>Shares</b>	<b>Weighted Average Exercise Price</b>	<b>Weighted Average Remaining Contractual Life</b>	<b>Aggregate Intrinsic Value (in millions)</b>
Outstanding, December 30, 2011	1,110	\$ 15.64		
Granted	—	\$ —		
Exercised	(262)	\$ 9.67		
Expired/Forfeited	(209)	\$ 19.22		
Outstanding, December 28, 2012	<u>639</u>	\$ 16.91	1.4	\$ 0.6
Exercisable, December 28, 2012	634	\$ 16.97	1.4	\$ 0.6
Options expected to vest, December 28, 2012	5	\$ 9.08	1.1	\$ —

The aggregate intrinsic value in the table above is the amount by which the market value of the underlying stock exceeded the exercise price of outstanding options, before applicable income taxes and represents the amount optionees would have realized if all in-the-money options had been exercised on the last business day of the period indicated. The closing per share market value of the Company’s stock on December 28, 2012 was \$15.54.

Total unrecognized stock-based compensation expense related to non-vested stock options was de minimis as of December 28, 2012. The total intrinsic value of options exercised during 2012 was \$1.9 million, was de minimis in 2011 and was \$0.2 million in 2010, determined as of the date of exercise.

Cash received from option exercises, net of tax withholdings, during 2012, 2011 and 2010 was \$2.5 million, \$0.1 million and \$0.2 million, respectively. The actual tax benefit realized for the deduction from option exercises during 2012 was \$0.6 million and was de minimis for 2011 and 2010.

***Employee stock purchase plan***

Our Employee Stock Purchase Plan (“ESPP”) allows eligible employees to contribute up to 10% of their earnings toward the monthly purchase of the Company’s common stock. The employee’s purchase price is the lesser of 85% of the fair market value of shares on either the first day or the last day of each month. Under our ESPP we have reserved for purchase 1.0 million shares of common stock, of which 0.2 million shares have been purchased as of December 28, 2012. We consider our ESPP to be a component of our stock-based compensation and accordingly we recognize compensation expense over the requisite service period for stock purchases made under the plan. The requisite service period begins on the enrollment date and ends on the purchase date, the duration of which is one month.

**Notes to Consolidated Financial Statements—(Continued)**

The following table summarizes transactions under our ESPP from fiscal year 2010 through 2012 (*shares in thousands*):

	Shares	Average Price Per Share
Issued during fiscal year 2012	95	\$ 12.41
Issued during fiscal year 2011	83	\$ 11.95
Issued during fiscal year 2010	81	\$ 10.75

**NOTE 11: INCOME TAXES**

The provision for income taxes is comprised of the following (*in millions*):

	2012	2011	2010
Current taxes:			
Federal	\$ 14.9	\$ 16.3	\$ 2.0
State	2.7	2.9	1.6
Foreign	0.3	0.4	0.4
Total current taxes	17.9	19.6	4.0
Deferred taxes:			
Federal	2.7	(1.3)	3.9
State	0.4	0.1	1.4
Foreign	—	0.1	—
Total deferred taxes	3.1	(1.1)	5.3
Provision for income taxes	\$ 21.0	\$ 18.5	\$ 9.3

The items accounting for the difference between income taxes computed at the statutory federal income tax rate and income taxes reported in the Consolidated Statements of Operations & Comprehensive Income are as follows (*in millions except percentages*):

	2012	%	2011	%	2010	%
Income tax expense based on statutory rate	\$ 19.1	35.0 %	\$ 17.2	35.0 %	\$ 10.2	35.0 %
Increase (decrease) resulting from:						
State income taxes, net of federal benefit	1.8	3.3 %	1.9	3.9 %	1.9	7.0 %
Tax credits, net	(1.9)	(3.5)%	(3.5)	(7.2)%	(4.6)	(16.0)%
Nondeductible/nontaxable Items	2.3	4.2 %	2.9	5.8 %	2.3	8.0 %
Other, net	(0.3)	(0.6)%	—	0.1 %	(0.5)	(2.0)%
Total taxes on income	\$ 21.0	38.4 %	\$ 18.5	37.6 %	\$ 9.3	32.0 %

Our effective tax rate on earnings for 2012 was 38.4% compared to 37.6% for the same period in 2011 and 32.0% in 2010. The increase in the effective income tax rate is due primarily to federal Work Opportunity Tax Credits which largely expired at the end of 2011. This income tax credit was designed to encourage employers to hire workers from certain targeted groups with higher-than-average unemployment rates. The principal difference between the statutory federal income tax rate of 35.0% and our 2012 effective income tax rate results from state income taxes, federal tax credits, and certain non-deductible expenses. The lower effective tax rate in 2010 was primarily due to the favorable resolution of certain tax matters.



**Notes to Consolidated Financial Statements—(Continued)**

The components of deferred tax assets and liabilities were as follows (*n* millions):

	<b>December 28, 2012</b>	<b>December 30, 2011</b>
<b>Deferred tax assets:</b>		
Allowance for doubtful accounts	\$ 2.0	\$ 2.4
Workers' compensation claims reserve	10.1	9.7
Accounts payable and other accrued expenses	2.4	3.5
Net operating loss carry-forwards	0.6	0.5
Accrued wages and benefits	5.9	4.3
Deferred compensation	1.5	1.1
Other	0.5	0.8
<b>Total</b>	<b>23.0</b>	<b>22.3</b>
Valuation allowance	(0.6)	(0.5)
<b>Total deferred tax asset, net of valuation allowance</b>	<b>22.4</b>	<b>21.8</b>
<b>Deferred tax liabilities:</b>		
Prepaid expenses, deposits and other current assets	(1.6)	(1.1)
Depreciation and amortization	(11.9)	(8.8)
Other	(0.9)	(0.8)
<b>Total deferred tax liabilities</b>	<b>(14.4)</b>	<b>(10.7)</b>
<b>Net deferred tax asset, end of year</b>	<b>8.0</b>	<b>11.1</b>
Net deferred tax asset, current	5.4	6.3
<b>Net deferred tax asset, non-current</b>	<b>\$ 2.6</b>	<b>\$ 4.8</b>

At December 28, 2012, Spartan Staffing Puerto Rico, LLC had net operating loss carry-forwards of approximately \$2.8 million expiring in 2015 through 2022. A valuation allowance has been established against our carry-forward tax benefits based on our history of past losses.

Deferred taxes related to our foreign currency translation were de minimis for 2012 and 2011 and was \$0.1 million for 2010.

As of December 28, 2012 our liability for unrecognized tax benefits was \$1.9 million, if recognized, \$1.2 million would impact our effective tax rate. We do not believe the amounts of unrecognized tax benefits will significantly increase or decrease within 12 months of the year ended December 28, 2012. This liability is recorded in Other non-current liabilities in our Consolidated Balance Sheets. In general, the tax years 2009 through 2011 remain open to examination by the major taxing jurisdictions where we conduct business.

The following table summarizes the activity related to our unrecognized tax benefits (*n* millions):

	<b>2012</b>	<b>2011</b>	<b>2010</b>
Balance, beginning of fiscal year	\$ 1.7	\$ 1.6	\$ 1.8
Decreases related to settlements	—	—	(0.5)
Increases for tax positions related to the current year	0.5	0.3	0.2
Increases for tax positions related to prior years	—	—	0.1
Decreases for tax positions related to prior years	—	—	—
Reductions due to lapsed statute of limitations	(0.3)	(0.2)	—
<b>Balance, end of fiscal year</b>	<b>\$ 1.9</b>	<b>\$ 1.7</b>	<b>\$ 1.6</b>

We recognize interest and penalties related to unrecognized tax benefits within the income tax expense line in the accompanying Consolidated Statements of Operations & Comprehensive Income. Accrued interest and penalties are included within the related tax liability line in the Consolidated Balance Sheets. Related to the unrecognized tax benefits noted above, we accrued \$0.1 million for interest and de minimis amounts for penalties during 2012 and in total, as of December 28, 2012, have recognized a liability for penalties of \$0.2 million and interest of \$0.7 million.

Notes to Consolidated Financial Statements—(Continued)

**NOTE 12. NET INCOME PER SHARE**

Adjusted net income and diluted common shares were calculated as follows (*n millions, except per share amounts*):

	2012	2011	2010
Net income	\$ 33.6	\$ 30.8	\$ 19.8
Weighted average number of common shares used in basic net income per common share	39.5	42.0	43.2
Dilutive effect of outstanding stock options and non-vested restricted stock	0.4	0.3	0.3
Weighted average number of common shares used in diluted net income per common share	39.9	42.3	43.5
Net income per common share:			
Basic	\$ 0.85	\$ 0.73	\$ 0.46
Diluted	\$ 0.84	\$ 0.73	\$ 0.46
Anti-dilutive shares	0.7	1.0	1.0

Basic net income per share is calculated by dividing net income by the weighted average number of common shares outstanding during the period. Diluted net income per share is calculated by dividing net income by the weighted average number of common shares and potential common shares outstanding during the period. Potential common shares include the dilutive effects of outstanding options, non-vested restricted stock and performance share units except where their inclusion would be anti-dilutive.

Anti-dilutive shares include unvested restricted stock, performance share units and in-the-money options for which the sum of the assumed proceeds, including unrecognized compensation expense, exceeds the average stock price during the periods presented. Anti-dilutive shares associated with our stock options relate to those stock options with an exercise price higher than the average market value of our stock during the periods presented.

**NOTE 13: SUPPLEMENTAL CASH FLOW INFORMATION**

Supplemental disclosure of cash flow information (*in millions*):

	2012	2011	2010
Cash paid during the period for:			
Interest	\$ 0.7	\$ 0.8	\$ 1.1
Income taxes	\$ 21.3	\$ 16.1	\$ 6.7

As of December 28, 2012 and December 30, 2011, we had acquired \$1.6 million and \$1.7 million, respectively, of property, plant and equipment on account that was not yet paid. During 2012, we paid \$1.7 million for capital expenditures acquired on account as of December 30, 2011. Amounts for 2010 have not been presented as they were de minimis. These are considered non-cash investing items.

**NOTE 14: SUBSEQUENT EVENTS**

On February 4, 2013, we entered into an Asset Purchase Agreement with MDT Personnel, LLC wherein we acquired substantially all of the assets of MDT, a temporary staffing provider with 105 branch locations and more than 15 on-site locations in 25 states. The base purchase price was \$48 million with \$12 million paid in cash and \$36 million in a note payable and assumed debt. An additional amount was paid to reimburse the seller for excess working capital. We are in the process of performing a purchase price allocation for the acquired assets and liabilities.

The American Taxpayer Relief Act of 2012 ("the Act") was signed into law on January 2, 2013. The Act retroactively restored the Work Opportunity Tax Credit. Because a change in tax law is accounted for in the period of enactment, the retroactive effect of the Act on the Company's U.S. federal taxes for 2012, a benefit of approximately \$3.2 million, will be recognized in 2013. In addition, we expect the Act's extension of these provisions through the end of 2013 will reduce our estimated annual effective tax rate for 2013 as compared to 2012.

**Notes to Consolidated Financial Statements—(Continued)**

We evaluated other events and transactions occurring after the balance sheet date through the date that the financial statements were issued, and noted no other events that were subject to recognition or disclosure.

**SELECTED QUARTERLY FINANCIAL DATA (UNAUDITED)  
IN MILLIONS (EXCEPT PER SHARE DATA)**

	First	Second	Third	Fourth
<b>2012</b>				
Revenue from services	\$ 311.2	\$ 354.2	\$ 379.4	\$ 344.6
Cost of services	232.0	260.7	274.2	250.2
Gross profit	79.2	93.5	105.2	94.4
Selling, general and administrative expenses	72.1	71.5	77.6	79.2
Depreciation and amortization	4.8	4.7	4.7	4.7
Income from operations	2.3	17.3	22.9	10.5
Interest expense	(0.4)	(0.3)	(0.3)	(0.3)
Interest and other income	0.7	0.7	0.7	0.7
Interest and other income, net	0.3	0.4	0.4	0.4
Income before tax expense	2.6	17.7	23.3	10.9
Income tax expense	1.1	7.4	9.0	3.5
Net income	\$ 1.5	\$ 10.3	\$ 14.3	\$ 7.4
Net income per common share:				
Basic	\$ 0.04	\$ 0.26	\$ 0.36	\$ 0.19
Diluted	\$ 0.04	\$ 0.26	\$ 0.36	\$ 0.19
<b>2011</b>				
Revenue from services	\$ 274.3	\$ 320.2	\$ 371.4	\$ 350.2
Cost of services	204.3	234.9	271.6	258.3
Gross profit	70.0	85.3	99.8	91.9
Selling, general and administrative expenses	65.1	67.7	73.2	76.8
Depreciation and amortization	3.9	3.8	4.2	4.4
Income from operations	1.0	13.8	22.4	10.7
Interest expense	(0.3)	(0.4)	(0.4)	(0.1)
Interest and other income	0.6	0.6	0.7	0.8
Interest and other income, net	0.3	0.2	0.3	0.7
Income before tax expense	1.3	14.0	22.7	11.4
Income tax expense	0.5	5.4	8.8	3.8
Net income	\$ 0.8	\$ 8.6	\$ 13.9	\$ 7.6
Net income per common share:				
Basic	\$ 0.02	\$ 0.20	\$ 0.33	\$ 0.19
Diluted	\$ 0.02	\$ 0.20	\$ 0.33	\$ 0.19

**Item 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE**

None.

**Item 9A. CONTROLS AND PROCEDURES**

*Conclusion Regarding the Effectiveness of Disclosure Controls and Procedures.* Under the supervision and with the participation of our management, including the Chief Executive Officer and Chief Financial Officer of the company, we have evaluated the effectiveness of our disclosure controls and procedures as required by Exchange Act Rule 13a-15(e) as of the end of the period covered by this report. Based on that evaluation, the Chief Executive Officer and Chief Financial Officer have concluded that these disclosure controls and procedures are effective.

*Management's Annual Report on Internal Control Over Financial Reporting.* Our management is responsible for establishing and maintaining adequate internal control over financial reporting for the company. Internal control over financial reporting is a process to provide reasonable assurance regarding the reliability of our financial reporting for external purposes in accordance with accounting principles generally accepted in the United States of America. Internal control over financial reporting includes maintaining records that in reasonable detail accurately and fairly reflect our transactions; providing reasonable assurance that transactions are recorded as necessary for preparation of our financial statements; providing reasonable assurance that receipts and expenditures of company assets are made in accordance with management authorization; and providing reasonable assurance that unauthorized acquisition, use, or disposition of company assets that could have a material effect on our financial statements would be prevented or detected on a timely basis. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements.

Management conducted an evaluation of the effectiveness of our internal control over financial reporting based on the framework in *Internal Control – Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on this evaluation, management concluded that the Company's internal control over financial reporting was effective as of December 28, 2012. The effectiveness of our internal control over financial reporting as of December 28, 2012 has been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report, which is included herein.

**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Board of Directors and Shareholders of TrueBlue, Inc.  
Tacoma, Washington

We have audited the internal control over financial reporting of TrueBlue, Inc. and subsidiaries (the "Company") as of December 28, 2012, based on criteria established in *Internal Control - Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Annual Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed by, or under the supervision of, the company's principal executive and principal financial officers, or persons performing similar functions, and effected by the company's board of directors, management, and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of the inherent limitations of internal control over financial reporting, including the possibility of collusion or improper management override of controls, material misstatements due to error or fraud may not be prevented or detected on a timely basis. Also, projections of any evaluation of the effectiveness of the internal control over financial reporting to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 28, 2012, based on the criteria established in *Internal Control - Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated financial statements and financial statement schedules as of and for the fiscal year ended December 28, 2012 of the Company and our report dated February 21, 2013 expressed an unqualified opinion on those financial statements and financial statement schedules.

/s/ Deloitte & Touche LLP

Seattle, Washington  
February 21, 2013

**Item 9B. OTHER  
INFORMATION**

None.

## PART III

### **Item 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE**

Information regarding our directors and nominees for directorship is presented under the heading “Election of Directors” in our definitive proxy statement for use in connection with the 2013 Annual Meeting of Shareholders (the “Proxy Statement”) to be filed within 120 days after our fiscal year ended December 28, 2012, and is incorporated herein by this reference thereto. Information concerning our executive officers is set forth under the heading “Executive Officers” in our Proxy Statement, and is incorporated herein by reference thereto. Information regarding compliance with Section 16(a) of the Exchange Act, our code of business conduct and ethics and certain information related to the Company’s Audit Committee and Governance Committee is set forth under the heading “Corporate Governance” in our Proxy Statement, and is incorporated herein by reference thereto.

### **Item 11. EXECUTIVE COMPENSATION**

Information regarding the compensation of our directors and executive officers and certain information related to the Company’s Compensation Committee is set forth under the headings “Executive Compensation,” “Director Compensation,” “Compensation Discussion and Analysis,” “Compensation Committee Report” and “Compensation Committee Interlocks and Insider Participation” in our Proxy Statement, and is incorporated herein by this reference thereto.

### **Item 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDERS**

Information with respect to security ownership of certain beneficial owners and management is set forth under the headings “Security Ownership of Certain Beneficial Owners and Management” and “Equity Compensation Plan Information” in our Proxy Statement, and is incorporated herein by this reference thereto.

### **Item 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE**

Information regarding certain relationships and related transactions and director independence is presented under the heading “Corporate Governance” in our Proxy Statement, and is incorporated herein by this reference thereto.

### **Item 14. PRINCIPAL ACCOUNTANT FEES AND SERVICE**

Information concerning principal accounting fees and services is presented under the heading “Fees Paid to Independent Public Accountant for Fiscal Years 2012 and 2011” in our Proxy Statement, and is incorporated herein by this reference thereto.



**PART IV**

**Item 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES**

- a) Exhibits and Financial Statement Schedules
  - 1. Financial Statements can be found under Item 8 of Part II of this Form 10-K.
  - 2. Financial Statement Schedules can be found on Page 59 of this Form 10-K.
  - 3. The Exhibit Index is found on Page 60 of this Form 10-K.

## SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

### TrueBlue, Inc.

/s/ Steven C. Cooper 2/21/2013  
Signature Date

By: Steven C. Cooper, Director, Chief Executive  
Officer and President

/s/ Derrek L. Gafford 2/21/2013  
Signature Date

By: Derrek L. Gafford, Chief Financial Officer and  
Executive Vice President

/s/ Norman H. Frey 2/21/2013  
Signature Date

By: Norman H. Frey, Chief Accounting Officer and  
Corporate Controller

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

/s/ Steven C. Cooper 2/21/2013  
Signature Date  
Steven C. Cooper, Director, Chief Executive Officer and  
President

/s/ Joseph P. Sambataro, Jr. 2/21/2013  
Signature Date  
Joseph P. Sambataro, Jr., Chairman of the Board

/s/ Craig Tall 2/21/2013  
Signature Date  
Craig Tall, Director

/s/ Jeffrey B. Sakaguchi 2/21/2013  
Signature Date  
Jeffrey B. Sakaguchi, Director

/s/ Thomas E. McChesney 2/21/2013  
Signature Date  
Thomas E. McChesney, Director

/s/ William W. Steele 2/21/2013  
Signature Date  
William W. Steele, Director

/s/ Gates McKibbin 2/21/2013  
Signature Date  
Gates McKibbin, Director

/s/ Bonnie W. Soodik 2/21/2013  
Signature Date  
Bonnie W. Soodik, Director

## FINANCIAL STATEMENT SCHEDULES

## Schedule II, Valuation and Qualifying Accounts (in millions)

## Allowance for doubtful accounts activity was as follows:

	2012	2011	2010
Balance, beginning of the year	\$ 5.8	\$ 6.4	\$ 6.6
Charged to expense	7.0	6.6	8.2
Write-offs	(7.8)	(7.2)	(8.4)
Balance, end of year	<u>\$ 5.0</u>	<u>\$ 5.8</u>	<u>\$ 6.4</u>

## Insurance receivable valuation allowance activity was as follows:

	2012	2011	2010
Balance, beginning of the year	\$ 7.3	\$ 7.6	\$ 6.8
Charged to expense	(1.7)	(0.3)	0.8
Balance, end of year	<u>\$ 5.6</u>	<u>\$ 7.3</u>	<u>\$ 7.6</u>

## Income tax valuation allowance additions (reductions) were as follows:

	2012	2011	2010
Balance, beginning of the year	\$ 0.5	\$ 0.7	\$ 0.6
Charged to expense	0.1	(0.2)	0.1
Balance, end of year	<u>\$ 0.6</u>	<u>\$ 0.5</u>	<u>\$ 0.7</u>

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**INDEX TO EXHIBITS**

<b>Exhibit Number</b>	<b>Exhibit Description</b>	<b>Incorporated by Reference</b>		
		<b>Form</b>	<b>File No.</b>	<b>Date of First Filing</b>
3.1	Amended and Restated Articles of Incorporation	8-K	001-14543	6/16/2009
3.2	Amended and Restated Company Bylaws	8-K	001-14543	9/17/2008
10.1	1996 Employee Stock Option and Incentive Plan	DEF 14A	000-23828	7/23/1996
10.2	2000 Stock Option Plan (Last Amended January 14, 2002)	10-K	001-14543	3/2/2004
10.3	Assumption and Novation Agreement among TrueBlue, Inc. and Lumbermen's Mutual Casualty Company, American Motorist Insurance Company, American Protection Insurance Company and American Manufacturers Mutual Insurance Company and National Union Fire Insurance Company of Pittsburgh, PA, dated December 29, 2004	10-K	001-14543	3/11/2005
10.4	Indemnification Agreement between TrueBlue, Inc. and National Union Fire Insurance Company of Pittsburgh, PA dated December 29, 2004	10-K	001-14543	3/11/2005
10.5	2005 Long Term Equity Incentive Plan	8-K	001-14543	5/24/2005
10.6	Executive Employment Agreement between TrueBlue, Inc. and James E. Defebaugh, dated August 3, 2005	8-K	001-14543	8/9/2005
10.7	First Amendment to the Executive Employment Agreement between TrueBlue, Inc. and James E. Defebaugh, dated December 31, 2006	10-Q	001-14543	5/4/2007
10.8	Executive Employment Agreement and First Amendment to the Executive Employment Agreement between TrueBlue, Inc. and Noel Wheeler, dated December 31, 2006	10-Q	001-14543	5/4/2007
10.9	Executive Employment Agreement between TrueBlue, Inc. and Derrek Gafford, dated December 31, 2006	10-Q	001-14543	5/4/2007
10.10	Executive Employment Agreement between TrueBlue, Inc. and Wayne Larkin, dated December 31, 2006	10-Q	001-14543	5/4/2007
10.11	Form Executive Non-Competition Agreement between TrueBlue, Inc. and Steven Cooper, Jim Defebaugh, Derrek Gafford, Wayne Larkin, and Noel Wheeler	10-Q	001-14543	5/4/2007
10.12	Form Executive Indemnification Agreement between TrueBlue, Inc. and Steven Cooper, Jim Defebaugh, Derrek Gafford, Wayne Larkin, and Noel Wheeler	10-Q	001-14543	5/4/2007
10.13	Form Executive Change in Control Agreement between TrueBlue, Inc. and Steven Cooper, Jim Defebaugh, Derrek Gafford, Wayne Larkin, and Noel Wheeler	10-Q	001-14543	5/4/2007

Exhibit Number	Exhibit Description	Incorporated by Reference		
		Form	File No.	Date of First Filing
10.14	Amended and Restated Executive Employment Agreement between TrueBlue, Inc. and Steven C. Cooper, dated November 16, 2009	8-K	001-14543	11/19/2009
10.15	Amended and Restated Non-Competition Agreement between TrueBlue, Inc. and Steven Cooper, dated November 16, 2009	8-K	001-14543	11/19/2009
10.16	Equity Retainer And Deferred Compensation Plan For Non- Employee Directors, effective January 1, 2010	S-8	333-164614	2/1/2010
10.17	2010 Employee Stock Purchase Plan	S-8	333-167770	6/25/2010
10.18	Amended and Restated 2005 Long-Term Equity Incentive Plan	S-8	333-167770	6/25/2010
10.19	Executive Employment Agreement between TrueBlue, Inc. and Kimberly Cannon, dated November 8, 2010	10-K	001-14543	2/2/2012
10.20	Form Executive Non-Compete Agreement, Form Executive Indemnification Agreement, and Form Executive Change in Control Agreement between TrueBlue, Inc. and Kimberly Cannon	10-Q	001-14543	5/4/2007
10.21	Amended and Restated Credit Agreement between TrueBlue, Inc. and Bank of America and Wells Fargo Capital Finance, dated September 30, 2011	8-K	001-14543	10/4/2011
10.22	TrueBlue, Inc. Nonqualified Deferred Compensation Plan	10-K	001-14543	2/22/2012
10.23*	Executive Employment Agreement between TrueBlue, Inc. and William Grubbs, dated October 15, 2012	—	—	—
10.24	Form Executive Non-Compete Agreement, Form Executive Indemnification Agreement, and Form Executive Change in Control Agreement between TrueBlue, Inc. and William Grubbs	10-Q	001-14543	5/4/2007
10.25*	Asset Purchase Agreement among MDT Personnel, LLC, MDT Personnel Contracts, LLC, MDT Staffing, LLC, Disaster Recovery Support, LLC, Michael D. Traina, TrueBlue, Inc., and Labor Ready Holdings, Inc. dated as of February 4, 2013	—	—	—
10.26*	Term Loan Agreement by and among TrueBlue, Inc., The Lenders That Signatories hereto, and Synovus Bank as of February 4, 2013	—	—	—
21*	Subsidiaries of TrueBlue, Inc.	—	—	—
23.1*	Consent of Deloitte & Touche LLP - Independent Registered Public Accounting Firm	—	—	—

Exhibit Number	Exhibit Description	Incorporated by Reference		
		Form	File No.	Date of First Filing
31.1*	Certification of Steven C. Cooper, Chief Executive Officer of TrueBlue, Inc., Pursuant to Rule 13a-14(a), as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	—	—	—
31.2*	Certification of Derrek L. Gafford, Chief Financial Officer of TrueBlue, Inc., Pursuant to Rule 13a-14(a), as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	—	—	—
32.1*	Certification of Steven C. Cooper, Chief Executive Officer of TrueBlue, Inc. and Derrek L. Gafford, Chief Financial Officer of TrueBlue, Inc., Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	—	—	—
101**	The following financial information from our Annual Report on Form 10-K for the fiscal year ended December 28, 2012, filed with the SEC on February 21, 2013, formatted in Extensible Business Reporting Language (XBRL): (i) the Consolidated Balance Sheets, (ii) the Consolidated Statements of Operations & Comprehensive Income, (iii) the Consolidated Statements of Cash Flows, and (iv) the Notes to Consolidated Financial Statements.	—	—	—
*	Filed herewith.			
**	Furnished herewith.			

Copies of Exhibits may be obtained upon request directed to Mr. James Defebaugh or Mr. Derrek Gafford, TrueBlue, Inc., PO Box 2910, Tacoma, Washington, 98401 and many are available at the SEC's website found at [www.sec.gov](http://www.sec.gov).

## EXECUTIVE EMPLOYMENT AGREEMENT

This Agreement is between William J. Grubbs ("Executive") and TrueBlue, Inc. or the TrueBlue, Inc. subsidiary employing Executive ("TrueBlue" or "Company"), and is effective as of October 15, 2012.

**I. COMPENSATION AND POSITION.****A. Employment.**

As of the date of this Agreement Executive wishes to serve the Company, and the Company wishes to employ Executive in the role of Executive Vice President, Chief Operating Officer under the terms and conditions stated in the Agreement. In this capacity, Executive will serve a key role on the executive team and will have company-wide management responsibility, including responsibility for affiliates of TrueBlue. Additionally, Executive will have access to confidential and propriety information of TrueBlue which is vital to the ability of TrueBlue and its affiliates to compete in all of its locations. Valuable consideration, including the mutual covenants and promises contained herein, including, without limitation, the terms of Section II 2, is provided to Executive to enter this Agreement, the sufficiency of which is expressly acknowledged.

**B. Effective Date.**

The terms and conditions of this Agreement shall become effective as of the date first written above, provided that Executive has voluntarily accepted and executed TrueBlue's Non-Competition Agreement (provided herewith). Acceptance and execution of TrueBlue's Non-Competition Agreement is a condition of employment and is a condition precedent to the enforceability of this Agreement.

**C. Compensation.**

Executive's compensation, subject to the terms and conditions set forth in this Agreement, is as follows:

1. **Annual Base Salary.** Executive will receive a salary in the gross amount of \$450,000 per year. This position is a salaried position which is exempt under the Fair Labor Standards Act and relevant state law. This salary is in compensation for all work performed by Executive. Executive warrants and acknowledges that Executive is not entitled to "overtime" pay. Company may withhold from any amounts payable under this Agreement all federal, state, city or other taxes as Company is required to withhold pursuant to any applicable law, regulation or ruling and other customary and usual deductions.

2. **Bonus.** Subject to the conditions set forth below, Executive will be eligible for a bonus, under and subject to the bonus plan in effect for executives for the relevant year ("Bonus Plan"). Executive must be employed by TrueBlue on date of payment and have met all of the requirements of the Bonus Plan to receive the bonus. The Bonus Plan and all aspects of bonus compensation may be changed at the discretion of the Compensation Committee and/or the Board of Directors.

3. **Equity Awards.** Executive will be eligible for awards in accordance with any applicable equity plan approved by the Compensation Committee, provided that any equity awards shall be subject to the discretion of the Compensation Committee and/or the Board of Directors.

**D. Benefits.**

1. **General.** Executive shall be entitled to all benefits offered generally to Executives of Company.

2. **Health & Welfare Benefits.** Executive and Executive's family may participate in benefits starting the first month after Executive's first 90 days of employment under this Agreement, subject to plan terms and conditions, including eligibility requirements.

3. **Vacation.** Executive shall be entitled each year during Executive's employment to vacation days, during which time Executive's compensation shall be paid in full, in accordance with policies in effect for executives to be established by the Company from time to time.

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## II. TERMS AND CONDITIONS.

### A. *Employment at Will.*

1. Company and Executive agree that Executive's employment is not for any specific or minimum term or duration, and that subject to Section II(A)(2) of this Agreement, the continuation of Executive's employment is subject to the mutual consent of Company and Executive, and that it is terminable at will, meaning that either Company or Executive may terminate the employment at any time, for any reason or no reason, with or without cause, notice, pre-termination warning or discipline, or other pre- or post-termination procedures of any kind. Executive acknowledges and agrees that any prior representations to the contrary are void and superseded by this Agreement, and that Executive may not rely on any future representations to the contrary, whether written or verbal, express or implied, by any statement, conduct, policy, handbook, guideline or practice of TrueBlue or its employees or agents. Nothing in this Agreement creates any right, contract or guarantee of continued or a length of term period of employment or gives Executive the right to any particular level of compensation or benefits and nothing in this Agreement should be construed as such. The parties agree that any decision maker who is charged with reviewing disputes surrounding Executive's employment shall reject any legal theory, whether in law or in equity, that is claimed to alter at-will employment, unless such theory cannot be waived as a matter of law.

2. (a) In the event of termination of Executive's employment for any or no reason or with or without Cause, by either Company or Executive, or if Executive's employment ends due to the death or disability of Executive, Executive shall be paid unpaid wages and unused vacation earned through the termination date.

(b) Provided that Executive's employment does not end due to Executive's death or disability, if TrueBlue terminates Executive's employment without Cause as defined in this Agreement, or Executive terminates employment with Good Reason as defined in this Agreement, subject to the conditions set forth below, in addition to the amounts described in Sections II(A)(2)(a) and VI H. Executive shall be provided with the following as the sole remedy for such termination, subject to withholding:

(i) separation payments for twelve (12) months from the termination date at the base monthly salary in effect for Executive on the termination date, with the actual period of receipt of such payments being referred to as the "Severance Period", provided, however, that if at the time of the Executive's termination of employment the Executive is considered a "specified employee" subject to the required six-month delay in benefit payments under Section 409A(a)(2)(B)(i) of the Internal Revenue Code of 1986, as amended, then the separation payments that would otherwise have been paid within the first six (6) months after the Executive's termination of employment shall instead be paid in a single lump sum on (or within 15 days after) the six-month anniversary of such termination of employment. Payments for the remaining six (6) months shall be made monthly after such six-month anniversary; and

(ii) accelerated vesting in any previously awarded stock options, restricted stock and other equity awards as if Executive had worked for the Company for twelve (12) months after Executive's termination date, provided that any options or other equity awards that are not exercised within the time periods for exercise set forth in the applicable plan, sub-plan or grant agreement, shall expire in accordance with the terms of such plan, sub-plan or grant agreement, as this accelerated vesting will not extend or otherwise delay the time period for exercising an option or other equity award.

(c) As a condition precedent to being entitled to receive the benefits set forth in Section II(A)(2)(b), within twenty-one (21) days of Executive's termination, Executive must (i) sign and deliver and thereafter not revoke a release in the form of Exhibit A to this Agreement in accordance with its terms or a form otherwise acceptable to Company; (ii) be and remain in full compliance with all provisions of Section III and IV of this Agreement; and (iii) be and remain in full compliance with TrueBlue's Non-Competition Agreement and any other covenants with Company entered into by Executive. Company shall have no obligation to make any payments or provide any benefits to the Executive hereunder unless and until the effective date of the Waiver and Release Agreement, as defined therein.

3. (a) For the purpose of this Agreement, "Cause," as used herein, means any of the following (alone or in combination):

(1) Executive is convicted of or takes a plea of nolo contendere to a crime involving dishonesty, fraud or moral turpitude;

(2) Executive has engaged in any of the following: (i) fraud, embezzlement, theft or other dishonest acts, (ii) unprofessional conduct, (iii) gross negligence related to the business or (iv) other conduct that is materially detrimental to the business as determined in the reasonable business judgment of Company;

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(3) Executive materially violates a significant Company policy (as they may be amended from time to time), such as policies required by the Sarbanes-Oxley Act, Company's Drug Free Workplace Policy or Company's EEO policies, and does not cure such violation (if curable) within twenty (20) days after written notice from Company;

(4) Executive willfully takes any action that materially damages the assets (including tangible and intangible assets, such as name or reputation) of Company;

(5) Executive fails to perform Executive's duties in good faith or Executive persistently fails to perform Executive's duties, and does not cure such failures within ten (10) days after written notice from Company or, if notice and cure have previously taken place regarding a similar failure to perform, if the circumstance recurs;

(6) Executive uses or discloses (or allows others to use or disclose) Confidential Information, as defined in this Agreement, without authorization; or

(7) Executive breaches this Agreement in any material respect and does not cure such breach (if curable) within twenty (20) days after written notice from Company or, if notice and cure have previously taken place regarding a similar breach, if a similar breach recurs.

(b) For the purpose of this Agreement, "Good Reason," as used herein, means:

(1) any material breach of this Agreement by Company which, if curable, has not been cured within twenty (20) days after Company has been given written notice of the need to cure the breach;

(2) a substantial reduction of responsibilities assigned to Executive, provided that Company fails to remedy such reduction within twenty (20) days after being provided written notice thereof from Executive that Executive objects to the same; or

(3) a reduction in Executive's base salary, other than as part of an across-the-board salary reduction generally imposed on executives of Company, provided that Company fails to remedy such reduction(s) within twenty (20) days after being provided written notice thereof from Executive that Executive objects to the same.

A termination of employment by the Executive for one of the reasons set forth in Section II. 3(b) (1) - (3) above will not constitute "Good Reason" unless, within the 60-day period immediately following the occurrence of such Good Reason event, Executive has given written notice to Company specifying in reasonable detail the event or events relied upon for such termination and Company has not remedied such event or events within twenty (20) days of the receipt of such notice.

**B. *Dispute Resolution; Arbitration; Exigent Relief.***

Company and Executive agree that any claim arising out of or relating to this Agreement, or the breach of this Agreement, or Executive's application, employment, or termination of employment, shall be submitted to and resolved by binding arbitration under the Federal Arbitration Act. Company and Executive agree that all claims shall be submitted to arbitration including, but not limited to, claims based on any alleged violation of Title VII or any other federal or state laws; claims of discrimination, harassment, retaliation, wrongful termination, compensation due or violation of civil rights; or any claim based in tort, contract, or equity. Any arbitration between Company and Executive will be administered by the American Arbitration Association under its Employment Arbitration Rules then in effect. The award entered by the arbitrator will be based solely upon the law governing the claims and defenses pleaded, and will be final and binding in all respects. Judgment on the award may be entered in any court having jurisdiction. In any such arbitration, neither Executive nor Company shall be entitled to join or consolidate claims in arbitration or arbitrate any claim as a representative or member of a class. Company agrees to pay for the arbiter's fees where required by law. In any claim or jurisdiction where this agreement to arbitrate is not enforced, Company and Executive waive any right either may have to bring or join a class action or representative action, and further waive any right either may have under statute or common law or any other legal doctrine to a jury trial.

Notwithstanding any other provisions of this Agreement regarding dispute resolution, including this Section II B, Executive agrees that Executive's violation or breach, or threatened violation or breach, of any provision of Sections III of this Agreement ("Confidential Information") and/or Executive's violation or breach, or threatened violation or breach, of other provisions of this Agreement which otherwise place Company in peril that cannot be readily remedied by monetary damages, would cause Company irreparable harm which would not be adequately compensated by monetary damages and that a temporary and/or preliminary or permanent injunction may be granted by any court or courts having jurisdiction (subject to the venue provision of Section VI F.), restraining the Executive from violation or breach of the terms of this Agreement. The preceding sentence shall not be construed

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to limit Company from any other relief or damages to which it may be entitled as a result of the Executive's breach of any provision of this Agreement.

**C. *Duty of Loyalty.***

Executive agrees to devote all time that is reasonably necessary to execute and complete Executive's duties to Company. During the time necessary to execute Executive's duties, Executive agrees to devote Executive's full and undivided time, energy, knowledge, skill and ability to Company's business, to the exclusions of all other business and sideline interests. Because of the agreement in the preceding sentence, during Executive's employment with Company, Executive also agrees not to be employed or provide any type of services, whether as an advisor, consultant, independent contractor or otherwise in any capacity elsewhere unless first authorized, in writing, by a proper representative of Company. In no event will Executive allow other activities to conflict or interfere with Executive's duties to Company. Executive agrees to faithfully and diligently perform all duties to the best of Executive's ability. Executive recognizes that the services to be rendered under this Agreement require certain training, skills and experience, and that this Agreement is entered into for the purpose of obtaining such service for Company. Upon request, Executive agrees to provide Company with any information which Executive possesses and which will be of benefit to Company. Executive agrees to perform Executive's duties in a careful, safe, loyal and prudent manner. Executive agrees to conduct him/herself in a way which will be a credit to TrueBlue's reputation and interests, and to otherwise fulfill all fiduciary and other duties Executive has to Company.

Executive represents and warrants that Executive has been in full compliance with all prior covenants Executive has entered into protecting TrueBlue's Confidential Information.

**D. *Reimbursement.***

If Executive ever possesses or controls any TrueBlue funds (including without limitation cash and travel advances, overpayments made to Executive by TrueBlue, amounts received by Executive due to TrueBlue's error, unpaid credit or phone charges, excess sick or vacation pay, or any debt owed TrueBlue for any reason, including misuse or misappropriation of company assets), Executive will remit them to TrueBlue corporate headquarters in Tacoma, Washington daily for the entire period of Executive's possession or control of such TrueBlue funds unless directed otherwise in writing. At any time upon request, and at the time when Executive's employment ends for any reason, even without request, Executive shall fully and accurately account to TrueBlue for any TrueBlue funds and other property in Executive's possession or control. If Executive fails to do so, Executive hereby authorizes Company (subject to any limitations under applicable law) to make appropriate deductions from any payment otherwise due Executive (including without limitation, Executive's paycheck, salary, bonus, commissions, expense reimbursements and benefits), in addition to all other remedies available to Company.

**E. *Background Investigation and Review of Company Property.***

1. Executive agrees that at any time during employment Company may, subject to any applicable legal requirements, investigate Executive's background for any relevant information on any subject which might have a bearing on job performance including, but not limited to, employment history, education, financial integrity and credit worthiness, and confirm that Executive has no criminal record during the last ten years. Executive shall sign any and all documents necessary for Company to conduct such investigation. For this purpose, Executive specifically authorizes Company to obtain any credit reports, background checks and other information which may be useful. Executive acknowledges and, except as may be limited by applicable law, agrees to abide at all times by the terms of TrueBlue's drug and alcohol policy. Executive understands that failure to comply with TrueBlue's policies, including its drug and alcohol policies, may result in termination of employment.

2. Executive acknowledges and agrees that unless otherwise expressly prohibited by law, Company has the complete right to review, inspect and monitor all Company property, including, without limitation, email, voicemail, and computer property of Company, and to review, inspect and monitor Executive's use of the internet or other computer related transmission of information, including, without limitation, the identity and use of USB and other computer related drives. Executive acknowledges that Executive has no expectation of privacy in Company's property, including, without limitation, email, voicemail, and computer property.

**III. CONFIDENTIAL INFORMATION.**

**A. *Non-Disclosure and Non-Use and other Protection of Confidential Information.***

1. In connection with Executive's duties, Executive may have access to some or all of TrueBlue's "Confidential Information," whether original, duplicated, computerized, memorized, handwritten, or in any other form, and all information

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contained therein, including, without limitation: (a) the ideas, methods, techniques, formats, specifications, procedures, designs, strategies, systems, processes, data and software products which are unique to TrueBlue; (b) all of TrueBlue's business plans, present, future or potential or customers or clients (including the names, addresses and any other information concerning any customer or client), marketing, marketing strategies, pricing and financial information, research, training, know-how, operations, processes, products, inventions, business practices, databases and information contained therein, its wage rates, margins, mark-ups, finances, banking, books, records, contracts, agreements, principals, vendors, suppliers, contractors, employees, applicants, Candidates, skill sets of applicants, skill sets of Candidates, marketing methods, costs, prices, price structures, methods for calculating and/or determining prices, contractual relationships, business relationships, compensation paid to employees and/or contractors, and/or other terms of employment, employee evaluations, and/or employee skill sets; (c) the content of all of TrueBlue's operations, sales and training manuals; (d) all other information now in existence or later developed which is similar to the foregoing; (e) all information which is marked as confidential or explained to be confidential or which, by its nature, is confidential or otherwise constitutes the intellectual property or proprietary information of TrueBlue; and/or (vi) any of TrueBlue's "trade secrets". For the purposes of this Section III, all references to, and agreements regarding, Confidential Information or Confidential Information of TrueBlue also apply to Confidential Information belonging to any affiliate of TrueBlue, and to any confidential or proprietary information of third party clients that TrueBlue has an obligation to keep confidential. Executive's covenants in this Section III shall protect affiliates and clients of TrueBlue to the same extent that they protect TrueBlue. Confidential Information shall not include any portion of the foregoing which (i) is or becomes generally available to the public in any manner or form through no fault of Employee, or (ii) is approved for Employee's disclosure or use by the express written consent of the Chief Executive Officer of TrueBlue, Inc.

2. Executive agrees and acknowledges that all Confidential Information is to be held in confidence and is the sole and exclusive property of TrueBlue and/or its affiliates or clients. Executive recognizes the importance of protecting the confidentiality and secrecy of Confidential Information. Executive agrees to use Executive's best efforts to protect Confidential Information from unauthorized disclosure to others. Executive understands that protecting Confidential Information from unauthorized disclosure is critically important to TrueBlue's success and competitive advantage, and that the unauthorized use or disclosure of Confidential Information would greatly damage TrueBlue. Executive recognizes and agrees that taking and using Confidential Information, including trade secrets, by memory is no different from taking it on paper or in some other tangible form, and that all of such conduct is prohibited. Executive agrees that, prior to use or disclosure, Executive will request clarification from TrueBlue's legal department if Executive is at all uncertain as to whether any information or materials are "Confidential Information."

3. During Executive's employment and in perpetuity after the termination of Executive's employment for any or no cause or reason, Executive agrees: (a) not to use (or allow others to wrongfully use) any Confidential Information for the benefit of any person (including, without limitation, Executive's benefit) or entity other than TrueBlue; and (b) not to, except as necessary or appropriate for Executive to perform Executive's job responsibilities, disclose (or allow others to wrongfully disclose) any Confidential Information to others or download or make copies of any Confidential Information without Company's written consent, or remove any such records from the offices of TrueBlue except for the sole purpose of conducting business on behalf of TrueBlue. If at any time Executive ever believes that any person has received or disclosed or intends to receive or disclose Confidential Information without Company's consent, Executive agrees to immediately notify Company.

4. At any time during Executive's employment upon Company's request, and at the end of Executive's employment with Company, even without Company's request, Executive covenants, agrees to, and shall immediately return to TrueBlue, at its headquarters in Tacoma Washington, all Confidential Information as defined herein, and all other material and records of any kind concerning TrueBlue's business, and all other property of Company that Executive may possess or control.

5. At all times, Executive agrees not to directly or indirectly take, possess, download, allow others to take or possess or download, provide to others, delete or destroy or allow others to delete or destroy, any of TrueBlue's Confidential Information or other property, other than in the normal course of business.

6. Executive agrees that these covenants are necessary to protect Company's Confidential Information, and Company's legitimate business interests (including, without limitation, the confidentiality of TrueBlue's business information and other legitimate interests), in view of Executive's key role with each branch of Company and its affiliates and the extent of confidential and proprietary information about the entire Company and its affiliates and clients to which Executive has information. Company and Executive agree that the provisions of this Section III do not impose an undue hardship on Executive and are not injurious to the public; that they are necessary to protect the business of Company and its affiliates and clients; that the nature of Executive's responsibilities with Company under this Agreement and Executive's former responsibilities with Company provide and/or have provided Executive with access to Confidential Information that is valuable and confidential to Company; that Company would not continue to employ Executive if Executive did not agree to the provisions of this Section III; that this Section III is reasonable in its terms and that sufficient consideration supports this Agreement, including, without limit, this Section III.

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7. The covenants set forth above are independent of any other provision of this Agreement. Executive agrees that they will be enforceable whether or not Executive has any claim against Company. Executive and Company agree that this Agreement should be interpreted in the way that provides the maximum protection to Company's Confidential Information.

8. Executive acknowledges that if Executive violates any of the foregoing covenants, the damage to Company will be such that Company is not likely to be made whole with a monetary award. Therefore, Executive agrees that if Executive violates or threatens to violate any such covenant, Company will be entitled to a temporary restraining order, a preliminary injunction and/or a permanent injunction, in addition to any and all other legal or equitable remedies available under law and equity.

9. Executive represents and warrants that Executive has been in full compliance with the provisions protecting TrueBlue's Confidential Information as set forth in the Previous Employment Agreement, as well as all other terms and conditions of the Previous Employment Agreement.

**B. *Other Employers and Obligations.***

1. Executive represents to Company that Executive is not subject to any restriction or duties under any agreement with any third party or otherwise which will be breached by employment with Company, or which will conflict with Company's best interests or Executive's obligations under this Agreement. Executive agrees to notify Executive's supervisor promptly in the event Executive or other employees is/are solicited for employment by any competitor of TrueBlue.

2. Executive warrants that Executive's employment with Company will not violate any contractual obligations with other parties. Executive will not use during Executive's employment with Company nor disclose to Company any confidential or proprietary information or trade secrets from any former or current employers, principals, partners, co-venturers, customers or suppliers, and will not bring onto Company's premises any unpublished document or any property belonging to any such person or entities without their consent. Executive will honor any non-disclosure, proprietary rights, or other contractual agreements with any other person or entity and has disclosed to Company any such agreements that may bear on employment with Company. Executive agrees to tell any prospective new employer about this Agreement and its terms.

**IV. ASSIGNMENT OF INVENTIONS.**

**A. *Inventions Assignment.***

Executive will make prompt and full disclosure to Company, will hold in trust for the sole benefit of Company, and does assign exclusively to Company all right, title and interest in and to any and all inventions, discoveries, designs, developments, improvements, copyrightable material and trade secrets (collectively herein "Inventions") that Executive solely or jointly may conceive, develop, author, reduce to practice or otherwise produce during Executive's employment with Company.

**B. *Outside Inventions.***

Executive's obligation to assign shall not apply to any Invention about which Executive can prove all the following: (a) it was developed entirely on Executive's own time; (b) no equipment, supplies, facility, services or trade secret information of TrueBlue was used in its development; (c) it does not relate (i) directly to the business of TrueBlue or its affiliates or (ii) to the actual or demonstrably anticipated business, research or development of TrueBlue or its affiliates; and (d) it does not result from any work performed by Executive for TrueBlue or its affiliates. Executive shall attach a list of all existing Inventions meeting these requirements to this Agreement.

**V. COMPLIANCE WITH LAWS AND TRUEBLUE'S CODE OF CONDUCT AND CORPORATE GOVERNANCE GUIDELINES.**

**A. *Commitment to Compliance.***

Company is committed to providing equal employment opportunity for all persons regardless of race, color, gender, creed, religion, age, marital or family status, national origin, citizenship, mental or physical disabilities, veteran status, ancestry, citizenship, HIV or AIDS, sexual orientation, on-the-job-injuries, or the assertion of any other legally enforceable rights, or other protected status under applicable law. Equal opportunity extends to all aspects of the employment relationship, including hiring, transfers, promotions, training, termination, working conditions, compensation, benefits, and other terms and conditions of employment. Company is likewise committed to ensuring that employees are accurately paid for all hours worked.

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**B. *Duty to Comply with the Law.***

Executive agrees to and shall comply with all federal, state and local laws and regulations, including, without limit, equal employment opportunity laws and wage and hour laws. Executive agrees to and shall immediately notify Company if Executive becomes aware of a violation of the law, or suspects a violation of the law has or will occur. Executive acknowledges that Executive may be held personally liable for intentional violations.

**C. *Duty to Comply with TrueBlue's Code of Conduct, and Corporate Governance Guidelines***

Executive acknowledges and agrees that it is Executive's duty to be familiar with TrueBlue's Code of Conduct and TrueBlue's Corporate Governance Guidelines, and to comply with all of their respective provisions.

**VI. MISCELLANEOUS.**

**A. *Integration.***

Except with respect to TrueBlue's Non-Competition Agreement, and the Change in Control Agreement, (i) no promises or other communications made by either Company or Executive are intended to be, or are, binding unless they are set forth in this Agreement; and (ii) this Agreement contains the entire agreement between the parties and replaces and supersedes any prior agreements, including Previous Employment Agreement(s). This Agreement may not be modified except by a written instrument signed by an appropriate officer of Company and by Executive. This Agreement will be binding upon Executive's heirs, executors, administrators and other legal representatives.

**B. *Choice of Law.***

Company and Executive agree that this Agreement and all interpretations of the provisions of this Agreement will be governed by the laws of the State of Washington, without regard to choice of law principles.

**C. *No Waiver.***

If Company waives any condition or term of this Agreement, Company is not waiving any other condition or term, nor is Company waiving any rights with respect to any future violation of the same condition or term. If Company chooses to refrain from enforcing any condition or term, Company does not intend to waive the right to do so.

**D. *Severability.***

The provisions of this Agreement are intended to be severable from each other. No provision will be invalid because another provision is ruled invalid or unenforceable. If any provision in this Agreement is held to be unenforceable in any respect, such unenforceability shall not affect any other provision of this Agreement and shall be re-written to provide the maximum effect consistent with the intent of the provision.

**E. *Assignment.***

Company reserves the right to assign this Agreement to its affiliates, an affiliated company or to any successor in interest to Company's business without notifying Executive, and Executive hereby consents to any such assignment. All terms and conditions of this Agreement will remain in effect following any such assignment.

**F. *Venue and Consent to Jurisdiction.***

Where the parties have mutually waived their right to arbitration in writing or have not yet sought to enforce their right to compel arbitration, or where a temporary and/or preliminary or permanent injunction may be necessary to protect the interests of Company, venue for any legal action in connection with this Agreement will be limited exclusively to the Washington State Superior Court for Pierce County, or the United States District Court for the Western District of Washington at Tacoma, or a proper superior court or United State District Court in the jurisdiction in which Executive last worked, or where Executive is engaged in violating the Agreement. Executive and Company agree that the choice of venue lies solely in the discretion of Company. Executive agrees to submit to the personal jurisdiction of the courts identified herein, and agrees to waive any objection to personal jurisdiction in these courts, including but not limited to any claim that any such suit, action or proceeding has been brought in an inconvenient forum.

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**G. Non-Disparagement.**

At all times during the Executive's employment with Company and following termination of that employment by either Executive or Company, Executive will not publicly disparage Company or its Subsidiaries or any of their respective directors, officers or employees. Executive will not be in breach of this provision by providing information as required by law or legal compulsion.

**H. Survival.**

Notwithstanding any provision of this Agreement to the contrary, the parties' respective rights and obligations under Sections II A., B. and D., III, IV, and VI do and shall survive any termination of the Executive's employment and/or the assignment of this Agreement by Company to any successor in interest or other assignee.

**I. Section 409A of the Code.**

To the extent applicable, it is intended that this Agreement comply with the provisions of Section 409A of the Code. This Agreement will be administered in a manner consistent with this intent, and any provision that would cause the Agreement to fail to satisfy Section 409A of the Code will have no force and effect until amended to comply with Section 409A of the Code (which amendment may be retroactive to the extent permitted by Section 409A of the Code and may be made by Company without the consent of the Executive).

**J. Other.**

The headings used in this Agreement are intended for convenience or reference only and will not in any manner amplify, limit, modify or otherwise be used in the construction or interpretation of any provision of this Agreement. References to Sections are to Sections of this Agreement. Any reference in this Agreement to a provision of a statute, rule or regulation will also include any successor provision thereto.

TRUEBLUE, INC.

By: /s/ James Defebaugh  
Name: James Defebaugh  
Title: EVP, General Counsel

EXECUTIVE

/s/ William J. Grubbs  
By signing this Agreement, I accept and acknowledge that I will abide by the terms and conditions of this Agreement. I agree and understand that nothing in this Agreement shall confer any right with respect to continuation of employment by Company, nor shall it interfere in any way with my right or Company's right to terminate my employment at any time, with or without cause.

**ASSET PURCHASE AGREEMENT**

**among**

**MDT Personnel, LLC,**

**MDT Personnel Contracts, LLC,**

**MDT Staffing, LLC,**

**Disaster Recovery Support, LLC,**

**Michael D. Traina,**

**TrueBlue, Inc.,**

**and**

**Labor Ready Holdings, Inc.**

**Dated as of February 4, 2013**

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## ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (this “*Agreement*”), dated as of February 4, 2013, among Labor Ready Holdings, Inc., a Nevada corporation (“*Purchaser*”), MDT Personnel, LLC, a Pennsylvania limited liability company (“*Seller Parent*”), MDT Personnel Contracts, LLC, a Delaware limited liability company (“*MDT Contracts*”), MDT Staffing, LLC, a Delaware limited liability company (“*MDT Staffing*”), Disaster Recovery Support, LLC, a Delaware limited liability company (“*DRS*” and, together with Seller Parent, MDT Contracts, and MDT Staffing, the “*Sellers*” and each a “*Seller*”), and, solely for purposes of *Article V*, Michael D. Traina (“*Member*” and, together with Sellers, each a “*Selling Party*” and together the “*Selling Parties*”), and, solely for the purposes of *Articles VI* and *XII*, TrueBlue, Inc, a Washington corporation (“*Purchaser Parent*” and, together with Purchaser, the “*Purchasing Parties*”).

## RECITALS

- A. Sellers presently conduct the Business.
- B. Sellers desire to sell, transfer and assign to Purchaser, and Purchaser, for itself and behalf of its Affiliates, desires to acquire and assume from Sellers, all of the Purchased Assets and Assumed Liabilities, all as more specifically provided in this Agreement.
- C. The Selling Parties have approved their respective entry into this Agreement and performance of their obligations under this Agreement.
- D. Certain terms used in this Agreement are defined in *Section 1.1*.

## AGREEMENT

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and agreements contained in this Agreement, the Parties hereby agree as follows:

## Article I

## DEFINITIONS

1.1 *Definitions*. For purposes of this Agreement, the following terms have the meanings specified in this *Section 1.1*:

“*Affiliate*” means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person, and the term “*control*” (including the terms “*controlled by*” and “*under common control with*”) 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 ownership of voting securities, by contract, or otherwise. For purposes of this Agreement, any reference to an “*Affiliate*” of Sellers will specifically exclude each of the businesses listed on *Schedule 7.1(a)*.

“*Business*” means the business of Sellers as it has been conducted, as now conducted, and as currently proposed to be conducted, including the direct provision of temporary or permanent laborers or employees who provide general labor, skilled labor, light industrial, event staffing, hospitality, and disaster recovery services; provided, however, that “*Business*” will specifically exclude the direct provision of employees who are information technology professional staff or operating a vendor management services provider.

“**Business Day**” means any day of the year other than a Saturday or Sunday or any day on which the Federal Reserve Bank of New York is closed.

“**Closing Cash**” means the amount of cash available for distribution at Closing as set forth on *Schedule 3.2*.

“**Closing Payments**” means the payments set forth on *Schedule 1(a)*.

“**COBRA**” means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

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

“**Contract**” means any written contract, agreement, indenture, note, bond, mortgage, loan, instrument, lease, license, commitment, or other arrangement, understanding, undertaking, commitment, or obligation.

“**Core Purchaser Representations**” means the representations and warranties of Purchaser set forth in *Sections 6.1 (Organization and Good Standing), 6.2 (Authorization of Agreement) and 6.5 (Financial Advisors)*.

“**Core Seller Representations**” means the representations and warranties of Sellers set forth in *Sections 5.1 (Organization and Good Standing; Capital Structure), 5.2 (Authorization of Agreement), 5.8 (Taxes), 5.13 (Employee Benefits), 5.24 (Financial Advisors), and 5.25 (Certain Payments)*.

“**Credit Agreement**” means the Third Amended and Restated Loan Agreement, dated September 28, 2012, by and among Synovus, Seller Parent, MDT Staffing, MDT Contracts, and Member (as such agreement has been amended, restated, modified, renewed, extended, supplemented or replaced prior to the Closing Date).

“**Custodian**” means any receiver, trustee, assignee, liquidator, sequestrator, or similar official under any bankruptcy Law.

“**Documents**” means all files, documents, instruments, papers, books, reports, records, tapes, microfilms, photographs, letters, budgets, forecasts, ledgers, journals, title policies, lists of past, present, or prospective customers, supplier lists, regulatory filings, operating data and plans, technical documentation (design specifications, functional requirements, operating instructions, logic manuals, flow charts, etc.), user documentation (installation guides, user manuals, training materials, release notes, working papers, etc.), marketing documentation (sales brochures, flyers, pamphlets, web pages, etc.), and other similar materials related to the Business and the Purchased Assets, in each case whether or not in electronic form.

“**Employee**” means all individuals who are employed or engaged by any Seller in connection with the Business as of the date of this Agreement or who are hired in respect of the Business after the date of this Agreement.

“**Environmental Law**” means any Law as now or hereafter in effect in any way relating to the protection of human health and safety, the environment, or natural resources, including the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. App. § 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Clean Water Act (33 U.S.C. § 1251 et seq.), the Clean Air Act (42 U.S.C. § 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), the Federal Insecticide, Fungicide,

and Rodenticide Act (7 U.S.C. § 136 et seq.), and the Occupational Safety and Health Act (29 U.S.C. § 651 et seq.), as each has been or may be amended and the regulations promulgated pursuant thereto.

“**Environmental Permit**” means any Permit required by Environmental Law for the operation of the Business.

“**ERISA**” means the Employment Retirement Income Security Act of 1974, as amended.

“**Escrow Agent**” means U.S. Bank, National Association.

“**Escrow Agreement**” means the Escrow Agreement, dated as of the Closing Date, between Purchaser, Sellers, and Escrow Agent, which Agreement sets forth the terms for the Indemnity Escrow Account, the Special Indemnity Account, and the Working Capital Escrow Account.

“**Excluded Contracts**” means the Contracts set forth on *Schedule 1(b)*.

“**Former Employee**” means all individuals who were employed or engaged by any Seller in connection with the Business but who are no longer so employed or engaged as of the date of this Agreement.

“**Furniture and Equipment**” means all furniture, fixtures, furnishings, machinery, tools, equipment, vehicles, rolling stock, leasehold improvements, and other tangible personal property of every kind owned, leased, or used by Sellers in the conduct of the Business (wherever located, including customer locations), including all artwork, desks, chairs, tables, Hardware, copiers, telephone lines and numbers, fax machines and other telecommunication equipment, cubicles and miscellaneous office furnishings, and supplies, together with any maintenance records and other documents relating thereto.

“**GAAP**” means generally accepted accounting principles in the United States as of the date of this Agreement.

“**Governmental Body**” means any government or governmental, administrative, or regulatory body thereof, or political subdivision thereof, whether foreign, federal, state, or local, or any agency, instrumentality, or authority thereof, or any court or arbitrator (public or private).

“**Hardware**” means any and all computer and computer-related hardware, including computers, file servers, facsimile servers, scanners, color printers, laser printers, and networks.

“**Hazardous Material**” means any substance, material, or waste that is regulated, classified, or otherwise characterized under or pursuant to any Environmental Law as “hazardous,” “toxic,” “pollutant,” “contaminant,” “radioactive,” or words of similar meaning or effect, including petroleum and its by-products, asbestos, polychlorinated biphenyls, radon, mold or other fungi, and urea formaldehyde insulation.

“**HSR Act**” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

“**Indebtedness**” of any Person means, without duplication, (i) the principal, accreted value, accrued and unpaid interest, prepayment and redemption premiums or penalties (if any), unpaid fees or expenses, and other monetary obligations in respect of (A) indebtedness of such Person for money borrowed and (B) indebtedness evidenced by notes, debentures, bonds, or other similar instruments for the payment of which such Person is responsible or liable; (ii) all obligations of such Person issued or assumed as the deferred purchase price of property, all conditional sale obligations of such Person, and all obligations of such Person

under any title retention agreement (but excluding trade accounts payable and other accrued current liabilities arising in the Ordinary Course of Business, other than the current liability portion of any indebtedness for borrowed money); (iii) all obligations of such Person under leases required to be capitalized in accordance with GAAP; (iv) all obligations of such Person for the reimbursement of any obligor on any letter of credit, banker's acceptance, or similar credit transaction; (v) all obligations of such Person under interest rate or currency swap transactions (valued at the termination value thereof); (vi) the liquidation value, accrued and unpaid dividends, prepayment or redemption premiums and penalties (if any), unpaid fees or expenses, and other monetary obligations in respect of any redeemable preferred stock (or other equity of such Person); (vii) all obligations of the type referred to in clauses (i) through (vi) of any Persons for the payment of which such Person is responsible or liable, directly or indirectly, as obligor, guarantor, surety, or otherwise, including guarantees of such obligations; and (viii) all obligations of the type referred to in clauses (i) through (vii) of other Persons secured by (or for which the holder of such obligations has an existing right, contingent or otherwise, to be secured by) any Lien on any property or asset of such Person (whether or not such obligation is assumed by such Person).

**"Indemnification Agreement"** means the Indemnification Agreement entered into on the Closing Date by and among Purchaser and Synovus.

**"Intellectual Property"** means all right, title, and interest in or relating to intellectual property, whether protected, created, or arising under the laws of the United States or any other jurisdiction, including (i) all patents and applications therefor, including all continuations, divisionals, and continuations-in-part thereof and patents issuing thereon, along with all reissues, reexaminations, and extensions thereof (collectively, "**Patents**"); (ii) all trademarks, service marks, trade names, service names, brand names, trade dress rights, logos, corporate names, trade styles, logos, and other source or business identifiers and general intangibles of a like nature, together with the goodwill associated with any of the foregoing, along with all applications, registrations, renewals, and extensions thereof (collectively, "**Marks**"); (iii) all Internet domain names; (iv) all copyrights and all mask work, database, and design rights, whether or not registered or published, all registrations and recordings thereof, and all applications in connection therewith, along with all reversions, extensions and renewals thereof (collectively, "**Copyrights**"); (v) trade secrets and other proprietary confidential information ("**Trade Secrets**"); (vi) all other intellectual property rights arising from or relating to Technology; and (vii) all Contracts granting any right relating to or under the foregoing.

**"Intellectual Property Licenses"** means (i) any grant by Sellers to another Person of any right relating to or under the Purchased Intellectual Property and (ii) any grant by another Person to Sellers of any right relating to or under any third Person's Intellectual Property.

**"IRS"** means the United States Internal Revenue Service and, to the extent relevant, the United States Department of Treasury.

**"Knowledge of Sellers"** means the actual knowledge, after due inquiry, of the Member, David Gerstner, Milana M. Milosh, Jodi L. Hon, Yohama C. (Joey) Guarino, and Vincent J. Lombardo.

**"Law"** means any foreign, federal, state, or local law (including common law), statute, code, ordinance, rule, regulation, Order, or other requirement.

**"Legal Proceeding"** means any judicial, administrative, or arbitral action, suit, mediation, investigation, inquiry, proceeding, or claim (including any counterclaim) by or before a Governmental Body.

**"Liability"** means any debt, loss, damage, adverse claim, fine, penalty, liability, or obligation (whether direct or indirect, known or unknown, asserted or unasserted, absolute or contingent, accrued or

unaccrued, matured or unmatured, determined or determinable, disputed or undisputed, liquidated or unliquidated, or due or to become due, and whether in contract, tort, strict liability, or otherwise), including all costs and expenses relating thereto (including all fees, disbursements, and costs of investigation and expenses of legal counsel, experts, engineers, and consultants).

“**Lien**” means any lien, encumbrance, pledge, mortgage, deed of trust, security interest, claim, lease, charge, option, right of first refusal, easement, servitude, proxy, voting trust or agreement, transfer restriction under any equity holder or similar agreement, encumbrance, or any other restriction or limitation whatsoever.

“**Material Adverse Effect**” means any result, occurrence, fact, change, event, or effect (whether or not constituting a breach of a representation, warranty, or covenant set forth in this Agreement) that, individually or in the aggregate with any such other results, occurrences, facts, changes, events, or effects, is or could reasonably be expected to be materially adverse to (i) any Seller’s or the Business’s historical or near-term or long-term projected business, operations, assets, liabilities, condition (financial or otherwise), or results of operations; (ii) the ability of any of the Selling Parties to perform their duties under this Agreement or the Seller Documents; or (iii) the ability of Purchaser to operate the Business immediately after the Closing substantially in the manner as the Business was operated by Sellers immediately prior to the Closing; provided, however, that “**Material Adverse Effect**” will not include any change or effect that results from (i) changes in Law or interpretations thereof, or regulatory policy or interpretation, by any Governmental Body so long as such change does not have a disproportionate effect on any Seller or the Business, (ii) changes in applicable accounting rules or principles, including changes in GAAP, so long as such change does not have a disproportionate effect on any Seller or the Business, (iii) changes in general economic conditions, and events or conditions generally affecting the industries in which the Sellers operate, so long as such change does not have a disproportionate effect on any Seller or the Business, (iv) national or international hostilities, acts of terror or acts of war, (v) compliance by Sellers with the terms of, or the taking of any action contemplated or permitted by, this Agreement, or (vi) the announcement or pendency of any of the Transactions. For the avoidance of doubt, the terms “material,” “materially” and “materiality” as used in this Agreement with an initial lower case “m” will have their respective customary and ordinary meanings, without regard to the meaning ascribed to Material Adverse Effect.

“**Order**” means any order, injunction, judgment, doctrine, decree, ruling, writ, assessment, or arbitration award of a Governmental Body.

“**Ordinary Course of Business**” means the ordinary and usual course of normal day-to-day operations of the Business, as conducted by Sellers, through the date of this Agreement consistent with past practice.

“**Party**” or “**Parties**” means the party or parties to this Agreement.

“**Permits**” means any approvals, authorizations, consents, licenses, registrations, variances, permits, or certificates granted by or obtained from a Governmental Body and applications therefor and renewals thereof.

“**Permitted Exceptions**” means (i) all defects, exceptions, restrictions, easements, rights of way, and encumbrances disclosed in policies of title insurance that have been delivered to Purchaser; (ii) statutory liens for current Taxes, assessments, or other governmental charges not yet due and payable or the amount or validity of which is being contested in good faith by appropriate proceedings, provided an appropriate reserve has been established therefor in the Financial Statements in accordance with GAAP; (iii) mechanics’, carriers’, workers’, and repairers’ Liens arising or incurred in the Ordinary Course of Business that are not material to the business, operations, and financial condition of the Sellers Property so encumbered and that are not resulting from a breach, default, or violation by any Seller of any Contract or Law; and (iv) zoning,



entitlement, and other land use and environmental regulations by any Governmental Body, provided that such regulations have not been violated.

“**Person**” means any individual, corporation, limited liability company, partnership, firm, joint venture, association, joint-stock company, trust, unincorporated organization, Governmental Body, or other entity.

“**Potential Loss**” means the discovery by a Party that a representation or warranty of another Party contained in this Agreement was not true in all respects when made and such inaccuracy may result in a Loss to such discovering Party.

“**Promissory Note**” means the Promissory Note, dated as of the Closing Date, made by Purchaser Parent as borrower with Synovus as lender.

“**Purchased Contracts**” means all Contracts related to the Business, including all Contracts listed on **Section 5.12(a)** of the Seller Disclosure Schedule, other than the Excluded Contracts.

“**Purchased Intellectual Property**” means all Intellectual Property owned by Sellers related to or used in connection with the Business.

“**Purchased Technology**” means all Technology owned by Sellers related to or used in connection with the Business.

“**Related Persons**” means (i) all officers, managers, equity holders, and other Persons in charge of a principal business unit or division of Sellers; and (ii) all Affiliates of any of the individuals listed in clauses (i).

“**Release**” means any release, spill, emission, leaking, pumping, pouring, injection, deposit, dumping, emptying, disposal, discharge, dispersal, leaching, or migration into the indoor or outdoor environment or into or out of any property.

“**Remedial Action**” means all actions, including any capital expenditures, undertaken to (i) clean up, remove, treat, or in any other way address any Hazardous Material; (ii) prevent the Release or threat of Release or minimize the further Release of any Hazardous Material so it does not migrate or endanger or threaten to endanger public health or welfare or the indoor or outdoor environment; (iii) perform pre-remedial studies and investigations or post-remedial monitoring and care; or (iv) to correct a condition of noncompliance with Environmental Laws.

“**Securities Act**” means the Securities Act of 1933, as amended.

“**Software**” means any and all (i) computer programs, including any and all software implementations of algorithms, models, and methodologies, whether in source code or object code; (ii) databases and compilations, including any and all data and collections of data, whether machine readable or otherwise; (iii) descriptions, flow-charts and other work product used to design, plan, organize, and develop any of the foregoing, screens, user interfaces, report formats, firmware, development tools, templates, menus, buttons, and icons; and (iv) all documentation, including user manuals and other training documentation related to any of the foregoing.

“**Subsidiary**” means any Person of which (i) a majority of the outstanding share capital, voting securities, or other equity interests are owned, directly or indirectly, by a Seller or (ii) any Seller is entitled,

directly or indirectly, to appoint a majority of the board of directors or managers or comparable supervisory body of such Person.

“**Synovus**” means Synovus Bank, a Georgia banking corporation.

“**Synovus Debt**” means any and all Indebtedness of Sellers outstanding under the Credit Agreement other than the Traina Loan (as defined in the Credit Agreement), including any and all amounts outstanding under the MDT Term Loan (as defined in the Credit Agreement) and the MDT Revolving Loan (as defined in the Credit Agreement).

“**Target Working Capital**” means \$22,500,000.

“**Tax**” or “**Taxes**” means (i) any federal, state, local, or foreign taxes, charges, fees, imposts, levies, or other assessments, including all net income, gross receipts, capital, sales, use, ad valorem, value added, transfer, franchise, profits, inventory, capital stock, license, withholding, payroll, employment, social security, unemployment, excise, severance, stamp, occupation, property, and estimated taxes, customs duties, fees, assessments, and charges of any kind whatsoever; (ii) any interest, penalties, fines, additions to tax, or additional amounts imposed by any Taxing Authority in connection with any item described in clause (i); and (iii) any liability in respect of any items described in clauses (i) or (ii) payable by reason of Contract, assumption, transferee liability, operation of law, Treasury Regulation section 1.1502-6(a) (or any predecessor or successor thereof or any analogous or similar provision of law), or otherwise.

“**Taxing Authority**” means the IRS and any other Governmental Body responsible for the administration of any Tax.

“**Tax Return**” means any return, report, or statement required to be filed with respect to any Tax (including any elections, declarations, schedules, or attachments thereto and any amendment thereof), including any information return, claim for refund, amended return, or declaration of estimated Tax, and including, where permitted or required, combined, consolidated, or unitary returns for any group of entities that includes any Seller or any of its Affiliates.

“**Technology**” means, collectively, (i) all Software, information, designs, formulae, algorithms, procedures, methods, techniques, ideas, know-how, research and development, technical data, programs, subroutines, tools, materials, specifications, processes, inventions (whether patentable or unpatentable and whether or not reduced to practice), apparatus, creations, improvements, works of authorship, and other similar materials; (ii) all recordings, graphs, drawings, reports, analyses, writings, and other tangible embodiments of the items listed in clause (i) in any form whether or not specifically listed in this definition; and (iii) all related technology that are used in, incorporated in, embodied in, displayed by, or relate to, or are used in connection with any of the items listed in clause (i) or (ii).

“**Transaction Expenses**” means all of the fees and expenses of Sellers payable in connection with the Transactions, including (i) fees and expenses of counsel, advisors, brokers, investment banks, accountants, actuaries, and experts engaged by or on behalf of any Seller and (ii) any amounts payable to any Employee or Former Employee resulting from or arising out of the consummation of the Transactions (such as severance, termination, change of control, or success bonuses).

“**Transactions**” means the transactions contemplated by this Agreement.

“**Transferred Employees**” means those Employees who are listed on *Schedule 1(c)*.

“**Transition Services Agreement**” means the Transition Services Agreement, dated as of the Closing Date, by and between Seller Parent and Purchaser Parent.

“**Treasury Regulations**” means the regulations promulgated under the Code.

“**Unpresented Checks**” means checks issued by Sellers and removed from Sellers’ accounts payable, but that have not yet been presented and paid.

“**Unpresented Check Adjustment**” means \$1,995,386.00.

“**Unpresented Check Holdback**” means \$200,000.00.

“**Vehicle Leases**” means those vehicle leases of Sellers which are listed on *Schedule 1(d)*.

“**WARN**” means the Worker Adjustment and Retraining Notification Act of 1988, as amended, and any similar state or local law or ordinance.

1.2 **Terms Defined Elsewhere in this Agreement.** For purposes of this Agreement, the following terms have the meanings given in the sections indicated:

<b>Term</b>	<b>Section</b>
Actual Additional Unpresented Check Amount	3.5
Agreed Principles	3.3(b)
Agreement	Introductory Paragraph
Assumed Liabilities	2.3
Balance Sheet	5.4(a)
Balance Sheet Date	5.4(a)
Base Purchase Price	3.1
Cap	10.4(b)
Closing	Article IV
Closing Date	Article IV
Closing Statement	3.3(b)
Closing Working Capital	3.3(b)
Confidential Information	7.1(c)
Continuing Support Obligations	7.6(c)
Copyrights	1.1 (in Intellectual Property definition)
Deductible	10.4(a)
DRS	Introductory Paragraph
Effective Time	Article IV
Employee Benefit Plans	5.13(a)
ERISA Affiliate	5.13(a)
ERISA Affiliate Plan	5.13(b)
Estimated Closing Working Capital	3.3(a)
Estimated Closing Working Capital Payment	3.3(a)

Term	Section
Excluded Assets	2.2
Excluded Liabilities	2.4
Final Working Capital	3.3(f)
Financial Statements	5.4(a)
General Survival Period	10.1
Guarantee	Article XII
Indemnity Escrow Account	10.5(a)
Indemnity Escrow Amount	10.5(a)
Independent Accountant	3.3(d)
Leased Real Property or Properties	5.9(a)
Loss	10.2(a)
Marks	1.1 (in Intellectual Property definition)
Material Contracts	5.12(a)
Member	Introductory Paragraph
Multiemployer Plan	5.13(a)
MDT Contracts	Introductory Paragraph
MDT Staffing	Introductory Paragraph
Net Working Capital	3.3(b)
Nonassignable Assets	2.5(c)
Obligations	Article XII
Patents	1.1 (in Intellectual Property definition)
Periodic Taxes	11.2
Personal Property Leases	5.10(b)
Purchased Assets	2.1
Purchaser	Introductory Paragraph
Purchaser Disclosure Schedule	Article VI (in introduction)
Purchaser Documents	6.2
Purchaser Indemnified Parties	10.2(a)
Purchaser Parent	Introductory Paragraph
Purchasing Party or Parties	Introductory Paragraph
Qualified Plans	5.13(c)
Real Property Lease(s)	5.9(a)
Restricted Business	7.1(a)
Seller Disclosure Schedule	Article V (in introduction)
Seller Documents	5.2
Seller Indemnified Parties	10.2(b)
Seller Marks	7.4
Seller Parent	Introductory Paragraph
Selling Party or Parties	Introductory Paragraph
Seller Permits	5.16(b)
Sellers	Introductory Paragraph

Term	Section
Significant Customer	5.20(a)
Special Indemnity Escrow Account	10.5(b)
Special Indemnity Escrow Amount	10.5(b)
Special Indemnity Unresolved Claims	10.5(b)
Support Obligations	7.6(a)
Survival Period	10.1
Third Party Claim	10.3(b)
Total Consideration	3.1
Trade Secrets	1.1 (in Intellectual Property definition)
Transfer Taxes	11.1
Unresolved Claims	10.5(a)
Working Capital Escrow Account	3.4
Working Capital Escrow Amount	3.4

## ARTICLE II

### PURCHASE AND SALE OF ASSETS; ASSUMPTION OF LIABILITIES

2.1 **Purchase and Sale of Assets.** On the terms and subject to the conditions set forth in this Agreement, Purchaser purchases, acquires and accepts from Sellers, and Sellers sell, transfer, assign, convey, and deliver to Purchaser, all of Sellers' right, title, and interest in, to, and under the Purchased Assets, free and clear of all Liens except for Permitted Exceptions. "**Purchased Assets**" means all of the business, assets, properties, contractual rights, goodwill, going concern value, rights, and claims of Sellers, wherever situated and of whatever kind and nature, real or personal, tangible or intangible, whether or not reflected on the books and records of Sellers (other than the Excluded Assets), including each of the following assets:

- (a) all accounts receivable, notes receivable, and other receivables of Sellers;
- (b) all inventory and supplies, including raw materials, work in progress, finished goods, manufacturing supplies, office supplies, packaging, and related materials;
- (c) all tangible personal property, including Furniture and Equipment;
- (d) all deposits (including customer deposits and security for rent, electricity, telephone, or otherwise), claims for refunds, prepaid charges and expenses (including any prepaid rent) rights of offset in respect of any of the foregoing, and all retentions or holdbacks of Sellers, including those set forth on **Schedule 2.1(d)**;
- (e) all rights of Sellers under each Real Property Lease, together with all improvements, fixtures, and other appurtenances thereto and rights in respect thereof;
- (f) the Purchased Intellectual Property and the Purchased Technology, including all goodwill associated therewith, licenses and sublicenses granted and obtained with respect thereto, and rights thereunder, remedies against infringement thereof, and rights to protection of interests therein under the laws of all jurisdictions, leases, subleases, and rights thereunder;

(g) all rights of Sellers under the Purchased Contracts, including all claims or causes of action with respect to the Purchased Contracts;

(h) all Documents that are related to the Business, including Documents relating to products, services, marketing, advertising, promotional materials, Purchased Intellectual Property, Purchased Technology, customer files and documents (including credit information), lists of present and former customers, supplier lists, records, literature, and correspondence, whether or not physically located on any of the premises referred to in clause (e) above;

(i) all Permits, including Environmental Permits, used by Sellers in the Business (which includes all Permits necessary to conduct the Business as currently conducted) and all rights and incidents of interest therein;

(j) all rights of Sellers under non-disclosure or confidentiality, non-compete, or non-solicitation agreements, assignment agreements, or similar agreements with Former Employees, Employees, or agents of Sellers or with third parties, to the extent such agreements are assignable;

(k) all claims, deposits, prepayments, refunds, causes of action, choses in action, rights of recovery, rights of set off, and rights of recoupment relating to the Purchased Assets or the Assumed Liabilities, whether liquidated or unliquidated, fixed or contingent;

(l) all rights of Sellers under or pursuant to all warranties, representations, and guarantees;

(m) all third-party workers' compensation proceeds and collateral associated therewith and rights thereto relating to the workers' compensation policies of Sellers for the period commencing on February 14, 2012 and ending on February 13, 2013, in any case irrespective of whether any such proceeds or collateral relate to the period prior to or after the Closing Date; and

(n) all goodwill and other intangible assets associated with the Business, including the goodwill associated with the Purchased Intellectual Property.

2.2 **Excluded Assets.** Nothing herein contained will be deemed to sell, transfer, assign, or convey the Excluded Assets to Purchaser, and Sellers retain all right, title, and interest to, in, and under the Excluded Assets. "**Excluded Assets**" means each of the following assets and only the following assets:

(a) the Excluded Contracts;

(b) all equity or ownership interests in any Seller or any Subsidiary;

(c) all Employee Benefit Plans and assets attributable thereto;

(d) all Hardware listed on *Schedule 2.2(d)*; and

(e) any assets related to any insurance policy of any Seller in effect prior to February 14, 2012; and

(f) the assets set forth on *Schedule 2.2(f)*.

2.3 **Assumption of Liabilities.** On the terms and subject to the conditions set forth in this Agreement, Purchaser assumes only the following liabilities of the Selling Parties (collectively, the “**Assumed Liabilities**”):

(a) all Liabilities of Sellers under the Purchased Contracts that arise out of or relate to the period from and after the Closing Date;

(b) all trade accounts payable and accrued expenses (including payroll, Taxes related to payroll, sales commissions, bonuses, and similar payments, in each case accrued through the Closing Date) of Sellers that were both incurred in the Ordinary Course of Business and are listed on **Schedule 2.3(b)**; provided that, for clarification, all such accrued expenses payable to Employees will be paid by Purchaser to Sellers, and then paid to Employees through Sellers’ payroll system in accordance with the Transition Services Agreement;

(c) all Liabilities of Sellers under each of the Real Property Leases that arise out of or relate to the period from and after the Closing Date;

(d) all Liabilities of the Member under each of the Permits, bonds and guarantees listed on **Schedule 2.3(d)** (in each case that are not terminated, released or replaced at or before Closing by Purchaser) that arise out of or relate to the period from and after the Closing Date;

(e) all Liabilities in respect of any pending or threatened Legal Proceeding set forth **Schedule 2.3(e)**;

(f) all Liabilities in respect of any workers’ compensation claims against Sellers that relate to the period commencing on February 14, 2012 and ending on February 13, 2013, irrespective of whether such claims are made prior to or after the Closing;

(g) all Liabilities of Sellers under each of the Vehicle Leases that arise out of or relate to the period from and after the Closing Date; and

(h) Unpresented Checks.

2.4 **Excluded Liabilities.** Notwithstanding any provision herein to the contrary, Purchaser does not assume, succeed to, become liable for, become subject to, or become obligated for, nor are the Purchased Assets subject to, any Excluded Liabilities. Sellers will timely perform, satisfy and discharge in accordance with their respective terms all Excluded Liabilities. “**Excluded Liabilities**” means all Liabilities of Sellers arising out of, relating to, or otherwise in respect of the Business on or before the Closing Date and all other Liabilities of Sellers other than the Assumed Liabilities, including the following Excluded Liabilities:

(a) all Liabilities in respect of any products sold or services performed by Sellers on or before the Closing Date;

(b) all Environmental Costs and Liabilities, to the extent arising out of or otherwise related to (i) the ownership or operation by Sellers of (A) the Leased Real Property (or any condition thereon) on or prior to the Closing Date (including (1) the Release or continuing Release (if existing as of the Closing) of any Hazardous Material, regardless of by whom or (2) any noncompliance with Environmental Laws); (B) the Business on or prior to the Closing Date; (C) the Excluded Assets or any other real property formerly owned, operated, leased, or otherwise used by Sellers, or (ii) from the offsite transportation, storage disposal,

treatment, or recycling of Hazardous Material generated by and taken offsite by or on behalf of Sellers prior to and through the Closing Date;

(c) except to the extent specifically provided in *Article VIII*, all Liabilities arising out of, relating to, or with respect to (i) the employment or performance of services, or termination of employment or performance of services, or any decision not to employ or engage the performance of services, by Sellers or any of their Affiliates of or by any individual; or (ii) any Employee Benefit Plan;

(d) except as otherwise set forth in *Section 2.3*, all Liabilities arising out of, under, or in connection with Contracts that are not Purchased Contracts and, with respect to Purchased Contracts, Liabilities in respect of or accruing under such Contracts with respect to any period prior to Closing;

(e) all Liabilities arising out of, under, or in connection with any Indebtedness or any Transaction Expenses of Sellers;

(f) all Liabilities for (i) Transfer Taxes allocable to Sellers pursuant to *Section 11.1*, (ii) Taxes of Sellers or any Subsidiaries or Affiliates thereof, and (iii) Taxes that relate to the Purchased Assets or the Assumed Liabilities allocable to Sellers pursuant to *Section 11.2*;

(g) all Liabilities in respect of any pending or threatened Legal Proceeding, or any claim arising out of, relating to, or otherwise in respect of the operation of the Business to the extent such Legal Proceeding or claim relates to such operation on or prior to the Closing Date, including those matters set forth on *Schedule 2.4(g)*, but specifically excluding those Legal Proceedings set forth on *Schedule 2.3(e)*;

(h) all Liabilities relating to any dispute with any client or customer of the Business existing as of the Closing Date or based upon, relating to, or arising out of events, actions, or failures to act prior to the Closing Date;

(i) all Liabilities relating to any right or claim of any Person to receive any proceeds from the Transactions;

(j) any Liabilities related to any insurance policy of any Seller in effect prior to February 14, 2012; and

(k) all Liabilities relating to the Excluded Assets.

#### **2.5 Further Conveyances and Assumptions; Consent of Third Parties.**

(a) Following the Closing and except as prohibited by Law, Sellers will, or will cause their Affiliates to, make available to Purchaser such data in personnel records of Transferred Employees, or any other Employees who are hired by Purchaser or its Affiliates in connection with the Transactions, as is reasonably necessary for Purchaser to transition such Transferred Employees or such other Employees into Purchaser's records.

(b) Following the Closing, Sellers and Purchaser will, and will cause their respective Affiliates to, execute, acknowledge, and deliver all such further conveyances, notices, assumptions, releases, and acquittances and such other instruments, and will take such further actions, as may be necessary or appropriate to assure fully to Purchaser and its respective successors or assigns, all of the properties, rights, titles, interests, estates, remedies, powers and privileges intended to be conveyed to Purchaser under this Agreement and the Seller Documents and to assure fully to Sellers and their Affiliates and their successors



and assigns, the assumption of the Liabilities and obligations intended to be assumed by Purchaser under this Agreement and the Seller Documents, and to otherwise make effective the Transactions.

(c) Nothing in this Agreement nor the consummation of the Transactions will be construed as an attempt or agreement to assign any Purchased Asset, including any Contract, Permit, certificate, approval, authorization or other right, that, by its terms or by Law, is nonassignable without the consent of a third party or a Governmental Body or is cancelable by a third party in the event of an assignment (“*Nonassignable Assets*”) unless and until such consent will have been obtained. Sellers will, and will cause their Affiliates to, use their best efforts to cooperate with Purchaser at its request in endeavoring to obtain such consents promptly. To the extent permitted by applicable Law, in the event consents to the assignment thereof cannot be obtained, such Nonassignable Assets will be held, as of and from the Closing Date, by Sellers or the applicable Affiliates of Sellers in trust for Purchaser and the covenants and obligations thereunder will be performed by Purchaser in the applicable Seller’s or such Affiliate’s name and all benefits and obligations existing thereunder will be for Purchaser’s account. Sellers will take or cause to be taken at Sellers’ expense such actions as Purchaser may reasonably request so as to provide Purchaser with the benefits of the Nonassignable Assets and to effect collection of money or other consideration that becomes due and payable under the Nonassignable Assets, and Sellers or the applicable Affiliates of Sellers will promptly pay over to Purchaser all money or other consideration received by any of them in respect of all Nonassignable Assets. As of and from the Closing Date, each Seller, on behalf of itself and its Affiliates, authorizes Purchaser, to the extent permitted by applicable Law and the terms of the Nonassignable Assets, at Purchaser’s expense, to perform all of the obligations and receive all of the benefits of such Seller or its Affiliates under the Nonassignable Assets and appoints Purchaser its attorney-in-fact to act in its name on its behalf or in the name of the applicable Affiliate of such Seller and on such Affiliate’s behalf with respect thereto.

**2.6 Bulk-Sales Laws.** Purchaser hereby waives compliance by Sellers with the requirements and provisions of any “bulk-transfer” Laws of any jurisdiction that may otherwise be applicable with respect to the sale of any or all of the Purchased Assets to Purchaser; provided that the Sellers will (a) pay and discharge when due or to contest or litigate all claims of creditors that are asserted against Purchaser or the Purchased Assets by reason of such noncompliance, (b) indemnify, defend and hold harmless Purchaser from and against any and all such claims in the manner provided in **Article X**, and (c) take promptly all necessary action to remove any Lien that is placed on the Purchased Assets by reason of such noncompliance.

**2.7 Allocation of Total Consideration.** The Total Consideration plus other amounts treated as consideration for federal income tax purposes will be allocated among the Purchased Assets and the covenants described in **Article VII** as set forth on **Schedule 2.7**. Purchaser and Sellers will agree in good faith to revisions of such allocation to reflect any purchase price adjustments and, to the extent required by applicable Law, file amended Tax Returns consistent with such revised allocation. **Schedule 2.7** has been prepared in accordance with Section 1060 of the Code and the applicable Treasury Regulations. All Tax Returns and reports filed by Purchaser and Sellers will be prepared consistently with such allocation (including any revisions in accordance with this Section) and will refrain from taking any position (whether in audits, Tax Returns or otherwise) or any other action inconsistent with such allocation, except as otherwise required by a final and non-appealable decision or other Order by any court of competent jurisdiction or by a final closing agreement or accepted offer in compromise under Sections 7121 or 7122 of the Code.

**2.8 Proration of Certain Expenses.** Except as otherwise provided in **Section 11.2** with respect to Taxes, all rents and other payments (including any prepaid amounts) due under the Real Property Leases and any other leases constituting part of the Purchased Assets will be prorated between Sellers, on the one hand, and Purchaser, on the other hand, as of the Closing Date. Sellers will be responsible for all rents

(including any percentage rent, and additional rent and any accrued tax and operating expense reimbursements and escalations), charges, and other payments of any kind accruing during any period under the Real Property Leases or any such other leases up to and including the Closing Date. Purchaser will be responsible for all such rents, charges, and other payments accruing during any period under the Real Property Leases or any such other leases after the Closing Date. Purchaser will pay the full amount of any invoices received by it and will submit a request for reimbursement to Sellers for Sellers' share of such expenses, and Sellers will pay the full amount of any invoices received by it, and Purchaser will reimburse Sellers for Purchaser's share of such expenses.

2.9 **Receivables.** Sellers will provide reasonable assistance to Purchaser in the collection of accounts receivable of Sellers as set forth in the Transition Services Agreement. If any Seller receives payment in respect of accounts receivable that are included in the Purchased Assets, then such Seller will promptly forward such payment to Purchaser.

## ARTICLE III

### CONSIDERATION

3.1 **Consideration.** The aggregate consideration for the Purchased Assets is (a) \$48,000,000.00 (the "**Base Purchase Price**") plus (b) the Estimated Closing Working Capital Payment (which is subject to adjustment after Closing as provided in **Section 3.3**) less (c) the Unpresented Check Adjustment plus (d) the assumption of the Assumed Liabilities. The product of items (a), (b), (c), and (d), as may be adjusted hereunder, is referred to as the "**Total Consideration**".

3.2 **Closing Cash.** On the Closing Date, Purchaser paid to Seller Parent the Closing Cash (1) less the Indemnity Escrow Amount, (2) less the Special Indemnity Escrow Amount, (3) less the Working Capital Escrow Amount, (4) less the Closing Payments, and (5) less the Unpresented Check Holdback, by wire transfer of immediately available funds, as such calculation of the Closing Cash is set forth on **Schedule 3.2**.

#### 3.3 **Closing Cash Adjustment.**

(l) Prior to the execution of this Agreement, Seller Parent delivered to Purchaser an estimate of Closing Working Capital ("**Estimated Closing Working Capital**"), and the applicable Closing Cash reflects the amount by which the Estimated Closing Working Capital exceeded the Target Working Capital, as set forth on **Schedule 3.3(a)** (the "**Estimated Closing Working Capital Payment**").

(m) As promptly as practicable, but no later than sixty (60) days after the Closing Date, Purchaser will cause to be prepared and delivered to Seller Parent the Closing Statement (as defined below) and a certificate based on such Closing Statement setting forth Purchaser's calculation of the Closing Working Capital. The closing statement (the "**Closing Statement**") will present the Net Working Capital immediately prior to the Closing Date ("**Closing Working Capital**"). "**Net Working Capital**" means an amount equal to Sellers' (i) accounts receivable net of bad debt reserve, plus prepaid expenses and other current assets, *minus* (ii) accounts payable, accrued payroll, accrued expenses, refunds due, 401k employee withholding payable, SUTA and State withholding and local taxes payable, sales taxes payable, FICA-FIT taxes payable, FUTA taxes payable, garnished wages/child support, workers compensation insurance and deferred rent liability, in each case immediately prior to the Closing Date as determined in accordance with the illustrative example and the accounting principles set forth on **Schedule 3.3(b)** (the "**Agreed Principles**"). For purposes of Purchaser's calculation of Closing Working Capital pursuant to this **Section 3.3(b)**, Purchaser agrees that Purchaser will not challenge the methodology utilized by Seller Parent in Seller Parent's calculation of

Closing Working Capital so long as Seller Parent's calculation of Closing Working Capital is in accordance with this Agreement and Seller Parent's historical methodology consistently applied.

(n) If Seller Parent disagrees with Purchaser's calculation of the Closing Working Capital delivered pursuant to **Section 3.3(b)**, Seller Parent may, within thirty (30) days after delivery of the Closing Statement, deliver a notice to Purchaser disagreeing with such calculation and setting forth Seller Parent's calculation of such amount. Any such notice of disagreement will specify those items or amounts as to which Seller Parent disagrees, and Seller Parent and the other Sellers will be deemed to have agreed with all other items and amounts contained in the Closing Statement and the calculation of Closing Working Capital delivered pursuant to **Section 3.3(b)**. If Seller Parent does not deliver a notice of disagreement within the 30-day period specified in the first sentence of this **Section 3.3(c)**, then Seller Parent and the other Sellers will be deemed to have agreed to the Closing Statement.

(o) If a notice of disagreement is duly delivered pursuant to **Section 3.3(c)**, Purchaser and Seller Parent will, during the thirty (30) days following such delivery, use their commercially reasonable efforts to reach agreement on the disputed items or amounts in order to determine, as may be required, the amount of Closing Working Capital, which amount will not be less than the amount thereof shown in Purchaser's calculation delivered pursuant to **Section 3.3(b)** nor more than the amount thereof shown in Seller Parent's calculation delivered pursuant to **Section 3.3(c)**. If the Parties do not resolve all disputes, the computation of Closing Working Capital, as amended to the extent necessary to reflect the resolution of the dispute, will be conclusive and binding on the Parties. If during such period, Purchaser and Seller Parent are unable to reach an agreement, they will promptly thereafter cause an independent "Big 4" accounting firm, which will be mutually agreed upon by Purchaser and Seller Parent (or if such a firm is unable or unwilling to accept its mandate, an independent accounting firm to be mutually agreed upon by Purchaser and Seller Parent) (such independent "Big 4" accounting firm or such other independent accounting firm, as the case may be, the "**Independent Accountant**") to review this Agreement and the disputed items or amounts for the purpose of calculating Closing Working Capital (it being understood that in making such calculation, the Independent Accountant will be functioning as an expert and not as an arbitrator). In making such calculation, the Independent Accountant will consider only those items or amounts in the Closing Statement and Seller Parent's calculation of Closing Working Capital as to which Seller Parent has disagreed. The Independent Accountant will deliver to Purchaser and Seller Parent, as promptly as practicable (but in any case no later than thirty (30) days from the date of engagement of the Independent Accountant), a report setting forth such calculation. Such report will be final and binding upon Purchaser and Sellers. The fees, costs, and expenses of the Independent Accountant's review and report will be allocated to and borne by Purchaser and Sellers based on the inverse of the percentage that the Independent Accountant's determination (before such allocation) bears to the total amount of the total items in dispute as originally submitted to the Independent Accountant. For example, should the items in dispute total in amount to \$1,000 and the Independent Accountant awards \$600 in favor of Sellers' position, 60% of the costs of its review would be borne by Purchaser and 40% of the costs would be borne by Sellers.

(p) Purchaser and Sellers will, and will cause their respective representatives to, cooperate and assist in the preparation of the Closing Statement and the calculation of the Closing Working Capital and in the conduct of the review referred to in this **Section 3.3**, including the making available to the extent necessary of books, records, work papers, and personnel.

(q) If Estimated Closing Working Capital exceeds Final Working Capital, Purchaser and Seller Parent will proceed in accordance with **Section 3.4**. If Final Working Capital exceeds Estimated Closing Working Capital, Purchaser will pay to Seller Parent on behalf of all Sellers the amount of such excess as an adjustment to the Total Consideration. "**Final Working Capital**" means Closing Working Capital

(i) as shown in Purchaser's calculation delivered pursuant to **Section 3.3(b)** if no notice of disagreement with respect thereto is duly delivered pursuant to **Section 3.3(c)** or (ii) if such a notice of disagreement is delivered, (A) as agreed by Purchaser and Seller Parent pursuant to **Section 3.3(d)** or (B) in the absence of such agreement, as shown in the Independent Accountant's calculation delivered pursuant to **Section 3.3(d)**; provided that in no event will Final Working Capital be more than Seller Parent's calculation of Closing Working Capital delivered pursuant to **Section 3.3(c)** or less than Purchaser's calculation of Closing Working Capital delivered pursuant to **Section 3.3(b)**.

(r) If Purchaser is required to make any payment pursuant to **Section 3.3(f)**, it will make such payment within three (3) Business Days after the Final Working Capital has been determined by wire transfer by Purchaser of immediately available funds to the account of Seller Parent as may be designated in writing by Seller Parent. No interest will be paid on any payment to be made pursuant to this **Section 3.3**.

3.4 **Working Capital Escrow**. On the Closing Date, Purchaser will, on behalf of Sellers, pay to the Escrow Agent, as agent to Purchaser and Sellers, in immediately available funds, to the account designated by the Escrow Agent (the "**Working Capital Escrow Account**"), an amount equal to \$500,000 (the "**Working Capital Escrow Amount**"), in accordance with the terms of this Agreement and the Escrow Agreement. Any payment Sellers are obligated to make to Purchaser pursuant to **Section 3.3** will be paid: (i) first, to the extent the Working Capital Escrow Amount is sufficient, by release of funds to Purchaser from the Working Capital Escrow Account by the Escrow Agent within five (5) Business Days after the date written instructions are delivered by Purchaser to Escrow Agent and the Escrow Agent will accordingly reduce the Working Capital Escrow Amount and, (ii) second, to the extent the Working Capital Escrow Amount is insufficient to pay any remaining sums due, then the Selling Parties will pay all of such additional sums due and owing to Purchaser by wire transfer of immediately available funds within five (5) Business Days after the date of delivery of such written instructions. In the event the Selling Parties breach their obligation to pay any amount hereunder, Purchaser may proceed against any securities or other property owned by such Selling Parties and the Selling Parties agree to take any and all action, including granting any powers of attorney or other authorizations, to permit such recourse. Within five (5) days following the release of funds from the Working Capital Escrow Account in accordance with clause (i) above or, if no such release is required, upon receipt of written instructions from Purchaser, the Escrow Agent will release any remaining Working Capital Escrow Amount to Sellers.

3.5 **Additional Unpresented Checks**. As soon as possible after the Closing, but no later than sixty (60) days after the Closing Date, Sellers will deliver to Purchaser a list setting forth each of the Unpresented Checks as of the Closing, which list will include the amounts of each such check and the total amount of Unpresented Checks as of Closing (such total amount, the "**Actual Unpresented Check Amount**"). If the Actual Unpresented Check Amount is less than the Unpresented Check Adjustment, Purchaser will pay such difference plus the Unrepresented Check Holdback to Seller Parent by wire transfer of immediately available funds within three (3) Business Days of such determination. If the Actual Unpresented Check Amount is more than the Unpresented Check Adjustment, Purchaser will deduct such difference from the Unpresented Check Holdback and pay the remaining amount of the Unpresented Check Holdback, if any, to Seller Parent by wire transfer of immediately available funds within three (3) Business Days of such determination.

3.6 **Tax Treatment**. Purchaser and the Selling Parties agree to treat the transactions under this Agreement as a taxable sale by Sellers of the Purchased Assets in exchange for the Total Consideration under section 1001 of the Code.

## ARTICLE IV

### CLOSING

The consummation of the Transactions (the “*Closing*”) became effective as of 12:01 a.m. (EST) (the “*Effective Time*”) on the date of this Agreement (the “*Closing Date*”).

## ARTICLE V

### REPRESENTATIONS AND WARRANTIES OF THE SELLING PARTIES

The Selling Parties, jointly and severally, represent and warrant to Purchaser, and acknowledge that Purchaser is relying upon such representations and warranties in connection with the Transactions, that the statements contained in this *Article V* are true and correct, except as set forth in the correspondingly numbered disclosure schedules delivered by Seller Parent to Purchaser (the “*Seller Disclosure Schedule*”) dated as of the Closing Date.

#### 5.1 *Organization and Good Standing; Capital Structure.*

(s) Each Seller is a limited liability company duly formed, validly existing, and in good standing or subsisting under the laws of the state of its formation and has all requisite corporate power and authority to own, lease, and operate its properties and to carry on its business as now conducted and as currently proposed to be conducted. Each Seller is duly qualified or authorized to do business and is in good standing under the laws of each jurisdiction in which it owns or leases real property and each other jurisdiction in which the conduct of its business or the ownership of its properties requires such qualification or authorization. Each Seller has delivered or made available to Purchaser true, complete, and correct copies of its organizational documents as in effect on the date of this Agreement.

(t) Each Seller has delivered or made available to Purchaser complete and correct copies of its ownership records, member consents, and minute books (if any), as amended to the Closing Date. The record books of each Seller contain correct and complete records of all material proceedings and actions taken at all meetings of, or effected by written consent of, the members or managers, as applicable, and the ownership records of each Seller contain correct and complete records of all original issuances and subsequent transfers, repurchases, and cancellations of all equity interests in such Seller. All actions of each Seller requiring consent of its members have been duly authorized in accordance with such Sellers’ organizational documents and applicable Law. Seller Parent is the direct owner of all outstanding ownership interests of MDT Contracts, MDT Staffing, and DRS, free and clear of all Liens, and all such interests are duly authorized, validly issued, fully paid, and nonassessable. *Section 5.1* of the Seller Disclosure Schedule lists all of the Sellers, together with each such entity’s jurisdiction of formation, the jurisdictions in which it is qualified to conduct business, and its authorized capitalization. Other than the Subsidiaries so listed, no Seller owns or controls, directly or indirectly, shares of capital stock of any other corporation, or any ownership interest in any partnership, limited liability company, joint venture, or other non-corporate business entity or enterprise.

(u) The respective percentage of the ownership interests beneficially owned by each of the Sellers’ members is set forth in *Section 5.1* of the Seller Disclosure Schedule. There are no securities of any Seller other than such equity interests, and no securities are held by any Seller in its treasury or otherwise. (The term “securities” includes all equity securities, options, warrants, rights to acquire stock, Indebtedness with equity features, and other ownership interests.)

(v) All outstanding ownership interests are validly issued, fully paid, nonassessable, and have been offered, issued, and sold by each Seller in compliance with applicable federal and state securities Laws. There are no options, warrants, calls, conversion rights, commitments, agreements, contracts, understandings, restrictions, equity-linked securities, or rights of any character that are outstanding, or to which any Seller is a party, or by which any Seller may be bound obligating it to issue additional membership or other ownership interests in it. No Seller has outstanding any bonds, debentures, notes or any other Indebtedness, the holders of which (i) have the right to vote (or are convertible or exercisable into securities having the right to vote) (or other equity interests in the case of a subsidiary of any Seller) on any matter or (ii) are or will become entitled to receive any payment as a result of the Transactions. No Seller has outstanding any restricted stock, restricted stock units, stock appreciation rights, stock performance awards, dividend equivalents, or other stock-based or equity-linked securities of any nature. There is no agreement or right allowing for the repurchase or redemption of any capital stock or convertible securities of any Seller, and no Seller has repurchased any of its ownership interests. There are no agreements requiring any Seller to contribute to the capital of, or lend or advance funds to, any of its Subsidiaries.

5.2 **Authorization of Agreement.** Each Selling Party has all requisite power, authority, and legal capacity to execute and deliver this Agreement and each other agreement, document, instrument, or certificate contemplated by this Agreement or to be executed by any Selling Party in connection with the Transactions (collectively, the “**Seller Documents**”), to perform its obligations hereunder and thereunder, and to consummate the Transactions. The execution, delivery, and performance of this Agreement and each of the Seller Documents and the consummation of the Transactions have been duly authorized and approved by all requisite action on the part of each Seller, including the approval of the managers and members of such Seller, such members being the owners of all of the outstanding ownership interests of such Seller. This Agreement and each of the Seller Documents have been duly and validly executed and delivered by each Selling Party that is a party thereto, and (assuming the due authorization, execution, and delivery by the Purchasing Parties) this Agreement and each of the Seller Documents constitute the legal, valid, and binding obligations of the Selling Parties enforceable against them in accordance with their respective terms, except to the extent that enforceability may be limited by the effect of (a) any applicable bankruptcy, insolvency, reorganization, moratorium, or other similar laws affecting the enforcement of creditors’ rights generally and (b) general equitable principles, regardless of whether such enforceability is considered in a proceeding at law or in equity. The Selling Parties have taken all steps necessary to ensure that Sellers will continue in existence after Closing.

5.3 **Conflicts; Consents of Third Parties.**

(a) None of the execution and delivery by the Selling Parties of this Agreement or the Seller Documents, the consummation of the Transactions, or compliance by any Selling Party with any of the provisions hereof or thereof will (i) conflict with, (ii) result in any violation or breach of or default (with or without notice or lapse of time, or both) under, (iii) give rise to a right of termination, cancellation, or acceleration of any obligation or the loss of a material benefit under, (iv) give rise to any obligation to make any payment under or to increased, additional, accelerated, or guaranteed rights or entitlements of any Person under, or (v) result in the creation of any Liens upon any of the properties or assets of any Selling Party under any provision of (A) the organizational documents of any Selling Party; (B) any Contract or Permit to which any Selling Party is a party or by which any of the properties or assets of the Selling Parties are bound; (C) any Order applicable to any Selling Party or by which any of the properties or assets of any Selling Party are bound; or (D) any applicable Law.

(b) No Seller is or has received notice that it would be, with the passage of time, in default or violation of any term, condition, or provision of (i) its organizational documents; (ii) any material

Contract or material Permit to which it is a party or by which any of its properties or assets are bound; or (iii) any Order applicable to it or by which any of its properties or assets are bound.

(c) No consent, waiver, approval, Order, Permit, or authorization of, declaration or filing with, or notification to any Person or Governmental Body is required on the part of any Seller in connection with (i) the execution and delivery of this Agreement or the Seller Documents, the compliance by any Seller with any of the provisions hereof and thereof, the consummation of the Transactions, or the taking by any Seller of any other action contemplated hereby or thereby or (ii) the continuing validity and effectiveness immediately following the Closing of any material Contract or material Permit of any Seller. Based upon the assets of Sellers, neither the execution and delivery of this Agreement nor the consummation of the Transactions are subject to any filing pursuant to the HSR Act.

#### 5.4 *Financial Statements.*

(a) Seller Parent has delivered to Purchaser copies of (i) the audited consolidated balance sheet of Sellers as at December 31, 2011 and the related audited consolidated statements of income and cash flows for the twelve (12)-month period then ended and (ii) the unaudited consolidated balance sheet of Sellers as at December 31, 2012 and the related consolidated statements of income and cash flows for the twelve (12)-month period then ended (collectively, items (i) and (ii) the “*Financial Statements*”). Each of the Financial Statements is materially complete and correct, has been prepared in accordance with GAAP consistently applied by Sellers without modification of the accounting principles used in the preparation thereof throughout the periods presented and fairly presents, in all material respects, the financial position, results of operations, and cash flows of Sellers as at the dates and for the periods indicated.

The audited balance sheet of Sellers as at December 31, 2011 is referred to as the “*Balance Sheet*” and December 31, 2011 is referred to as the “*Balance Sheet Date*.”

(b) All books, records, and accounts of Sellers are accurate and complete and are maintained in all material respects in accordance with good business practice and all applicable Laws. Each Seller maintains a system of internal accounting controls sufficient to provide reasonable assurances that (i) transactions are executed in accordance with management’s general or specific authorization; (ii) transactions are recorded as necessary to permit the preparation of financial statements in conformity with GAAP and to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management’s general or specific authorization; and (iv) the recorded accountability for assets and Liabilities are compared with the actual levels at reasonable intervals and appropriate action is taken with respect to any differences.

(c) The financial projections and business plan provided by Seller Parent to Purchaser before the date of this Agreement were reasonably prepared on a basis reflecting management’s best estimates, assumptions, and judgments, at the time provided to Purchaser, as to the future financial performance of Sellers.

5.5 *No Undisclosed Liabilities.* Sellers have no Indebtedness or Liabilities (whether or not required under GAAP to be reflected on a balance sheet or the notes thereto) other than those (a) incurred in connection with the Transactions, (b) specifically reflected in, fully reserved against, or otherwise described in the Balance Sheet or the notes thereto, or (c) incurred in the Ordinary Course of Business since the Balance Sheet Date none of which, individually or in the aggregate, are expected to exceed \$10,000.

5.6 *Title to Purchased Assets; Sufficiency; Fair Consideration.* Sellers own and have good and valid title to each of the Purchased Assets, free and clear of all Liens other than Permitted Exceptions.

The Purchased Assets constitute all of the assets used in or held for use in the Business and are sufficient for Purchaser to conduct the Business from and after the Closing Date without interruption and in the Ordinary Course of Business as it has been conducted by Sellers. Sellers have determined, in good faith, that the Total Consideration is equal to or greater than the fair value of the Purchased Assets. Sellers are not entering into the Transactions with intent to hinder, delay, or defraud either present or future creditors. After the Closing, no Seller will have unreasonably small capital for its business and for the debts it is likely to incur and each Seller will be able to pay its debts and obligations as they become due.

5.7 **Absence of Certain Developments.** Except as expressly contemplated by this Agreement, since the Balance Sheet Date, (i) Sellers have conducted the Business only in the Ordinary Course of Business; (ii) there has not been any event, change, occurrence, or circumstance that, individually or in the aggregate with any such events, changes, occurrences, or circumstances, has had or could reasonably be expected to have a Material Adverse Effect; and (iii) no Seller has taken any of the following actions:

(a) (i) increase the salary or other compensation of any manager, director, officer, consultant, or Employee of any Seller or any of its Affiliates except for normal year-end increases in the Ordinary Course of Business; (ii) grant any unusual or extraordinary bonus, benefit, or other direct or indirect compensation to any manager, director, officer, consultant, or Employee of any Seller or any of its Affiliates; (iii) increase the coverage or benefits available under any (or create any new) severance pay, termination pay, vacation pay, company awards, salary continuation for disability, sick leave, deferred compensation, bonus or other incentive compensation, insurance, pension, or other employee benefit plan or arrangement made to, for, or with any of the managers, directors, officers, consultants, Employees, agents, or representatives of any Seller or any of its Affiliates or otherwise modify or amend or terminate any such plan or arrangement; or (iv) enter into any employment, deferred compensation, severance, special pay, consulting, non-competition, or similar agreement or arrangement with any managers, directors, officers, consultants, or Employees of any Seller or any of its Affiliates (or amend any such agreement) to which any Seller or any of its Affiliates is a party;

(b) (i) issue, create, incur, assume, guarantee, endorse, or otherwise become liable or responsible with respect to (whether directly, contingently, or otherwise) any Indebtedness; (ii) except in the Ordinary Course of Business, pay, repay, discharge, purchase, repurchase, or satisfy any Indebtedness issued or guaranteed by any Seller; (iii) modify the terms of any Indebtedness or other Liability; or (iv) make any loans, advances of capital contributions to, or investments in any other Person;

(c) in each case to the extent it could bind or adversely affect Purchaser post Closing, (i) make, change, or revoke any Tax election, settle or compromise any Tax claim or liability, enter into a settlement or compromise, or change (or make a request to any taxing authority to change) any aspect of its method of accounting for Tax purposes or (ii) prepare or file any Tax Return (or any amendment thereof) unless such Tax Return will have been prepared in a manner consistent with past practice and Sellers will have provided Purchaser a copy thereof (together with supporting papers) at least three (3) Business Days prior to the due date thereof for Purchaser to review and approve (such approval not to be unreasonably withheld, conditioned or delayed);

(d) subject to any Lien or otherwise encumber or, except for Permitted Exceptions, permit, allow, or suffer to be encumbered any of the properties or assets (whether tangible or intangible) of or used by any Seller;



- (e) acquire any material properties or assets or sell, assign, license, transfer, convey, lease, or otherwise dispose of any of the Purchased Assets other than for fair consideration in the Ordinary Course of Business;
- (f) enter into or agree to enter into any merger or consolidation with any corporation or other entity, engage in any new business or invest in, make a loan, advance, or capital contribution to, or otherwise acquire the securities of any other Person;
- (g) declare, set aside, make, or pay any dividend or other distribution in respect of the capital stock or other securities of or other ownership interests in any Seller or repurchase, redeem, or otherwise acquire any outstanding equity interests or other securities or ownership interests in any Seller;
- (h) cancel or compromise any debt or claim or waive or release any material right of any Seller except in the Ordinary Course of Business;
- (i) introduce any material change with respect to the operation of the Business, including any material change in the type, nature, composition, or quality of products or services, or, other than in the Ordinary Course of Business, make any change in product specifications or prices or terms of distributions of such products or change its pricing, discount, allowance, or return policies or grant any pricing, discount, allowance, or return terms for any customer or supplier not in accordance with such policies;
- (j) enter into any Contract, understanding, or commitment that restrains, restricts, limits, or impedes the ability of the Business or Purchaser to compete with or conduct any business or line of business in any geographic area or solicit the employment of any persons;
- (k) terminate, amend, restate, supplement, abandon, or waive any rights under any (i) Material Contract, Real Property Lease, Personal Property Lease, or Intellectual Property License, other than in the Ordinary Course of Business or (ii) Permit;
- (l) change or modify its credit, collection, or payment policies, procedures, or practices, including acceleration of collections or receivables (whether or not past due) or fail to pay or delay payment of payables or other liabilities;
- (m) enter into any commitment for capital expenditures in excess of \$10,000 for any individual commitment and \$50,000 for all commitments in the aggregate;
- (n) amend the organizational documents of any Seller;
- (o) enter into any transaction or enter into, modify, or renew any Contract that by reason of its size, nature, or otherwise is not in the Ordinary Course of Business; or
- (p) agree to do anything (i) prohibited by this **Section 5.7**; (ii) that would make any of the representations and warranties of the Selling Parties in this Agreement or any of the Seller Documents untrue or incorrect in any material respect; or (iii) that would be reasonably expected to have a Material Adverse Effect.

#### 5.8 **Taxes.**

- (a) (i) All material Tax Returns required to be filed by or on behalf of each Seller have been duly and timely filed with the appropriate Taxing Authority in all jurisdictions in which such Tax Returns

are required to be filed, and all such Tax Returns are true, complete, and correct in all material respects, and (ii) all material Taxes relating to the Business or the Purchased Assets have been fully and timely paid.

(b) All deficiencies asserted or assessments made as a result of any examinations by any Taxing Authority of the Tax Returns relating to the Purchased Assets or the Business have been fully paid; there are no audits or investigations by any Taxing Authority in progress; and no Seller has received any written notice or, to the Knowledge of Sellers, oral notice, from any Taxing Authority that it intends to conduct an audit or investigation relating to the Purchased Assets or the Business.

(c) Each Seller has complied in all material respects with all applicable Laws relating to the payment and withholding of Taxes and has duly and timely withheld and paid over to the appropriate Taxing Authorities all amounts required to be so withheld and paid over under all applicable Laws.

(d) No claim has been made by a Taxing Authority in a jurisdiction in which any Seller does not currently file a Tax Return such that any Seller is or may be subject to taxation by that jurisdiction.

(e) No agreement, waiver, or other document or arrangement extending or having the effect of extending the period for assessment or collection of Taxes (including any applicable statute of limitation) or the period for filing any Tax Return, in each case with respect to the Business or the Purchased Assets, has been executed or filed with any Taxing Authority by or on behalf of Sellers. No Seller has requested any extension of time within which to file any Tax Return with respect to the Business or the Purchased Assets, which Tax Return has since not been filed.

(f) No Seller has received written notice of any Liens for Taxes upon the Purchased Assets, except for Permitted Exceptions, and to the Knowledge of Sellers, no such Liens exist.

(g) None of the Purchased Assets is an interest in an entity taxable as a corporation, partnership, trust, or real estate mortgage investment conduit for federal income tax purposes.

(h) No Seller has received written notice from, and to the Knowledge of Sellers, no issue has been raised by, any Governmental Body that, by application of the same principles, would reasonably be expected to affect the Tax treatment of the Purchased Assets or the Business in any taxable period (or portion thereof) ending after the Closing Date.

(i) No power of attorney with respect to any Tax matter is currently in force with respect to the Purchased Assets or the Business that would, in any manner, bind, obligate, or restrict Purchaser.

(j) No Seller has executed or entered into any agreement with, or obtained any consents or clearances from, any Taxing Authority or been subject to any ruling guidance specific to it that would be binding on Purchaser for any taxable period (or portion thereof) ending after the Closing Date.

(k) None of the Assumed Liabilities is an obligation to make a payment that is not deductible under Section 280G of the Code.

#### 5.9 ***Real Property.***

(a) No Seller currently owns, or at any time has owned, any real property or any interests in real property, including improvements thereon and easements appurtenant thereto. **Section 5.9(a)** of the Seller Disclosure Schedule sets forth, with respect to each Seller, a complete list of all real property and interests in real property leased by such Seller (each a “***Leased Real Property***” and, collectively, the “***Leased***

**Real Properties**”) as lessee or lessor and a description of each such lease (each a “**Real Property Lease**” and, collectively, the “**Real Property Leases**”) that includes the name of the third party lessor or lessee and the date of the lease or sublease and all amendments thereto. The Real Property Leases constitute all interests in real property currently used, occupied, or held for use in connection with the Business and that are necessary for the continued operation of the Business as currently conducted. All of the Leased Real Property and buildings, fixtures, and improvements thereon (A) are in good operating condition without structural defects, all mechanical and other systems located thereon are in good operating condition, and no condition exists requiring material repairs, alterations, or corrections and (B) are suitable, sufficient, and appropriate in all respects for their current and contemplated uses. Seller Parent has delivered or made available to Purchaser true, correct, and complete copies of the Real Property Leases, together with all amendments, modifications, or supplements thereto.

(b) Each Seller has, and will transfer to Purchaser at the Closing, a valid, binding, and enforceable leasehold interest under each of the Real Property Leases under which it is a lessee, free and clear of all Liens other than Permitted Exceptions. Each of the Real Property Leases is in full force and effect and is the legal, valid, and binding obligation of the applicable Seller and, to the Knowledge of Sellers, of the other parties thereto, enforceable against each of them in accordance with its terms and, upon consummation of the Transactions, will continue in full force and effect without penalty or other adverse consequence. No Seller is in default under any Real Property Lease. To the Knowledge of Sellers, no other party to any Real Property Lease is in breach of or default thereunder and no event has occurred that, with the lapse of time or the giving of notice or both, would constitute a breach or default by any Seller or any other party thereunder. No Seller has received or given any written notice, or, to the Knowledge of Sellers, oral notice, of any default or event that, with notice or lapse of time or both, would constitute a default under any of the Real Property Leases. No party to any Real Property Lease has exercised any termination rights with respect thereto and no party has given written notice, or, to the Knowledge of Sellers, oral notice, of any significant dispute with respect to any Real Property Lease.

(c) Sellers have all certificates of occupancy and Permits of any Governmental Body necessary or useful for the current use and operation of each of the Leased Real Properties, and Sellers have fully complied with all material conditions of all applicable Permits. No default or violation, or event that, with the lapse of time or giving of notice or both, would become a default or violation, has occurred with respect to any Permit.

(d) There is no actual or, to the Knowledge of Sellers, threatened or contemplated condemnation or eminent domain proceedings that affect any Leased Real Property or any part thereof. No Seller has received any written notice or, to the Knowledge of Sellers, oral notice, of the intention of any Governmental Body or other Person to take or use all or any part of any Leased Real Property.

(e) No Seller has received any written notice or, to the Knowledge of Sellers, oral notice, from any insurance company that has issued a policy with respect to any Leased Real Property requiring performance of any structural or other repairs or alterations to such Leased Real Property.

(f) No Seller owns or holds, or is obligated under or a party to, any option, right of first refusal, or other contractual right to purchase, acquire, sell, assign, or dispose of any real estate or any portion thereof or interest therein.

#### 5.10 **Tangible Personal Property.**

(a) Sellers have good and marketable title to all of the items of tangible personal property reflected on the balance sheet as of the Interim Balance Sheet Date or used in the Business (except as sold

or disposed of after the date of this Agreement in the Ordinary Course of Business and not in violation of this Agreement), free and clear of any and all Liens other than Permitted Exceptions. All such items of tangible personal property that, individually or in the aggregate, are material to the operation of the Business are in good condition and in a state of good maintenance and repair (ordinary wear and tear excepted) and are suitable for the purposes used.

(b) **Section 5.10** of the Seller Disclosure Schedule sets forth all leases of personal property (“**Personal Property Leases**”) involving annual payments in excess of \$5,000 relating to personal property reflected on the balance sheet as of the Interim Balance Sheet Date or used in the Business or to which any Seller is a party or by which the properties or assets of any Seller are bound. All of the items of personal property under the Personal Property Leases are in good condition and repair (ordinary wear and tear excepted) and are suitable for the purposes used, and such property is in all material respects in the condition required of such property by the terms of the applicable lease. Seller Parent has delivered or made available to Purchaser true, correct, and complete copies of the Personal Property Leases, together with all amendments, modifications, or supplements thereto.

(c) The tangible personal property owned and leased by Sellers is sufficient for the continued operation of the Business. Each Seller has a valid, binding, and enforceable leasehold interest under each of the Personal Property Leases under which it is a lessee. Each of the Personal Property Leases is in full force and effect and no Seller has received or given any written notice or, to the Knowledge of Sellers, oral notice, of any default or event that with notice or lapse of time or both would constitute a default by it under any of the Personal Property Leases. To the Knowledge of Sellers, no other party to the personal property Leases is in default thereof. No party to the Personal Property Leases has exercised any termination rights with respect thereto.

#### 5.11 **Intellectual Property.**

(a) **Section 5.11(a)** of the Seller Disclosure Schedule sets forth an accurate and complete list of all Internet domain names, Patents, registered Marks, pending applications for registration of Marks, unregistered Marks, registered Copyrights, and pending applications for registration of Copyrights included in the Purchased Intellectual Property. **Section 5.11(a)** of the Seller Disclosure Schedule lists (i) the jurisdictions in which each such item of Purchased Intellectual Property has been issued, registered, otherwise arises or in which any such application for such issuance and registration has been filed and (ii) the registration or application date, as applicable.

(b) Sellers are the sole and exclusive owners of all right, title and interest in and to all of the Purchased Technology and Purchased Intellectual Property, including each of the Copyrights in any works of authorship prepared by or for any Seller that resulted from or arose out of any work performed by or on behalf of any Seller or by any employee, officer, consultant or contractor of any Seller, in each case, free and clear of all Liens or obligations to others (except for those specified licenses included in **Section 5.11(e)** of the Seller Disclosure Schedule). Sellers have valid and continuing rights to use, sell, and license, as the case may be, all other Intellectual Property and Technology related to or used in connection with the Business as the same is used, sold, and licensed in the Business as presently conducted and proposed to be conducted, free and clear of all Liens or obligations to others (except for those specified licenses included in **Section 5.11(e)** of the Seller Disclosure Schedule).

(c) The Purchased Intellectual Property and Purchased Technology, the design, development, manufacturing, licensing, marketing, distribution, offer for sale, sale, use, or maintenance of any products and services in connection with the Business as presently and as currently proposed to be

conducted, and the present and currently proposed business practices, methods, and operations of Sellers do not infringe, constitute an unauthorized use of, misappropriate, dilute, or violate any Intellectual Property or other right of any Person (including pursuant to any non-disclosure agreements or obligations to which any Seller or any Employee or Former Employee is a party). The Purchased Intellectual Property and the Intellectual Property and Technology licensed to Sellers under the Intellectual Property Licenses included in the Purchased Contracts and the Purchased Technology include all of the Intellectual Property and Technology necessary and sufficient to enable Sellers to conduct the Business in the manner in which the Business is currently being conducted and proposed to be conducted.

(d) Except with respect to licenses of commercial off-the-shelf Software available on reasonable terms for a license fee of no more than \$10,000, and except pursuant to the Intellectual Property Licenses listed in **Section 5.11(e)** of the Seller Disclosure Schedule, Sellers are not required, obligated, or under any liability whatsoever to make any payments by way of royalties, fees, or otherwise to any owner, licensor of, or other claimant to any Purchased Intellectual Property, or any other Person, with respect to the use thereof or in connection with the conduct of the Business as currently conducted or proposed to be conducted.

(e) **Section 5.11(e)** of the Seller Disclosure Schedule sets forth a complete and accurate list of all (i) Intellectual Property Licenses, (ii) Contracts to which any Seller is a party containing a covenant not to compete or otherwise limiting its ability to (x) exploit fully any of the Purchased Intellectual Property or (y) conduct the Business in any market or geographical area or with any Person and (iii) Contracts to which any Seller is a party containing an agreement to indemnify any other Person against any claim of infringement, unauthorized use, misappropriation, dilution, or violation of Intellectual Property. Seller Parent has delivered or made available to Purchaser true, correct and complete copies of each Contract and Intellectual Property License set forth on **Section 5.11(e)** of the Seller Disclosure Schedule together with all amendments, modifications, or supplements thereto.

(f) Each of the Intellectual Property Licenses is in full force and effect and is the legal, valid, and binding obligation of the applicable Seller, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium, and similar laws affecting creditors' rights and remedies generally and subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity). Sellers are not in default under any Intellectual Property License, nor, to the Knowledge of Sellers, is any other party to an Intellectual Property License in default thereunder. To the Knowledge of Sellers, no event has occurred that, with the lapse of time or the giving of notice or both, would constitute a default under any Intellectual Property License. No party to any of the Intellectual Property Licenses has exercised any termination rights with respect thereto, and there are no material disputes regarding the scope or performance of any such agreement. Sellers have and will transfer to Purchaser at the Closing, good and valid title to the Intellectual Property Licenses, free and clear of all Liens other than Permitted Exceptions. Seller Parent has delivered or otherwise made available to Purchaser true, correct, and complete copies of all of the Intellectual Property Licenses, together with all amendments, modifications, or supplements thereto.

(g) No Trade Secret material to the Business as presently conducted or proposed to be conducted has been authorized to be disclosed or has been actually disclosed by any Seller to any of its Former Employees, Employees, or any third Person other than pursuant to a confidentiality or non-disclosure agreement. Each Seller has taken adequate security measures to protect the secrecy, confidentiality, and value of all the Trade Secrets included in the Purchased Intellectual Property and any other non-public, proprietary information included in the Purchased Technology, which measures are reasonable in the industry in which the Business operates. Each Seller has executed valid written agreements with all of its Former

Employees, Employees, and other third Persons who have contributed to the development of Technology and Intellectual Property pursuant to which each such Former Employee, Employee, or other third Person has assigned to such Seller all his or her rights in and to all Technology and Intellectual Property he or she may develop in the course of his or her employment or engagement (as applicable) and agreed to hold all trade secrets and confidential information of Sellers in confidence both during and after his or her employment or engagement.

(h) No Seller is the subject of any pending or, to the Knowledge of Sellers, threatened Legal Proceedings that involve a claim of infringement, unauthorized use, misappropriation, dilution, or violation by any Person against any Seller or challenging the ownership, use, validity, or enforceability of any Purchased Intellectual Property. No Seller has received written (including by electronic mail) notice of any such threatened claim and, to the Knowledge of Sellers, there are no facts or circumstances that would form the basis for any such claim or challenge. The Purchased Intellectual Property, and all of Sellers' rights in and to the Purchased Intellectual Property, are valid and enforceable.

(i) To the Knowledge of Sellers, no Person is infringing, violating, misusing, or misappropriating any Purchased Intellectual Property, and no such claims have been made against any Person by any Seller.

(j) There are no Orders to which any Seller is a party or by which it is bound that restrict, in any material respect, any rights to any Purchased Intellectual Property or that affect the validity, use, or enforceability of any Purchased Intellectual Property.

(k) The consummation of the Transactions will not result in the loss or impairment of Purchaser's right to own or use any of the Purchased Intellectual Property or Purchased Technology.

(l) No Employee or Former Employee has any right, title, or interest, directly or indirectly, in whole or in part, in any material Purchased Intellectual Property. To the Knowledge of Sellers, no Employee or Former Employee is, as a result of or in the course of such employee's, consultant's, or independent contractor's engagement, in default or breach of any material term of any employment agreement, non-disclosure agreement, assignment of invention agreement, or similar agreement.

(m) **Section 5.11(m)** of the Seller Disclosure Schedule sets forth a complete and accurate list of (i) all Software included in the Purchased Technology owned exclusively by any Seller that is material to the operation of the Business and (ii) all other Software used in the Business that is not exclusively owned by any Seller, excluding commercial-off-the-shelf Software available on reasonable terms for a license fee of no more than \$10,000 in the aggregate.

(n) The information technology systems of Sellers, including the relevant Software and Hardware, are adequate for the Business as presently conducted and as currently proposed to be conducted, including with respect to expected increases in business volume. The information technology systems of Sellers have not suffered any material failure within the past two (2) years and are reasonably secure against intrusion. No Seller has suffered any security breaches within the past two (2) years that have resulted in a third party obtaining access to any confidential information of any Seller's customers, suppliers, Employees, or Former Employees.

(o) No open source software or freeware has been incorporated into any product of any Seller that would in any way limit the ability to make, use, or sell such product or that would diminish or transfer the rights of ownership in any Intellectual Property or Software of any Seller to a third party.

(p) Sellers are in compliance with any posted privacy policies and any Laws or regulations relating to personally identifiable information.

#### 5.12 *Material Contracts.*

(a) **Section 5.12(a)** of the Seller Disclosure Schedule sets forth, by reference to the applicable subsection of this **Section 5.12(a)**, all of the following Contracts to which any Seller is a party or by which any Seller or any Seller's assets or properties are bound (collectively, the "**Material Contracts**"):

(i) Contracts with any current or former officer, director, equity holder, or Affiliate of any Seller;

(ii) Contracts with any labor union or association representing any Employee;

(iii) Contracts for the sale of any of the assets of any Seller other than in the Ordinary Course of Business or for the grant to any Person of any preferential rights to purchase any of its assets;

(iv) Contracts for joint ventures, strategic alliances, partnerships, licensing arrangements, or sharing of profits or proprietary information;

(v) Contracts containing (A) covenants of any Seller not to compete in any line of business or with any Person in any geographical area or not to solicit or hire any Person with respect to employment or (B) covenants of any other Person not to compete with any Seller in any line of business or in any geographical area or not to solicit or hire any Person with respect to employment;

(vi) Contracts relating to the acquisition (by merger, purchase of equity or assets, or otherwise) by any Seller of any operating business or material assets or the capital stock of any other Person;

(vii) Contracts relating to the incurrence, assumption, or guarantee of any Indebtedness or imposing a Lien on any of the assets of any Seller, including indentures, guarantees, loan or credit agreements, sale and leaseback agreements, purchase money obligations incurred in connection with the acquisition of property, mortgages, pledge agreements, security agreements, or conditional sale or title retention agreements;

(viii) all Contracts providing for payments by or to any Seller in excess of \$25,000 in any fiscal year or \$100,000 in the aggregate during the term thereof;

(ix) Contracts providing for severance, retention, change in control, or other similar payments;

(x) all contracts with any Employee or Former Employee of any Seller, including all contracts for the employment of any individual on a full-time, part-time, consulting, or other basis and all contracts containing any noncompetition, nondisclosure, non-solicitation, confidentiality or other restrictive provisions;

(xi) material management Contracts and Contracts with independent contractors or consultants (or similar arrangements) that are not cancelable without penalty or further payment and without more than thirty (30) days' notice;

- (xii) any contract with a Significant Customer;
- (xiii) outstanding Contracts of guaranty, surety, or indemnification, direct or indirect, by any Seller; and
- (xiv) Contracts otherwise material to any Seller.

(b) Each of the Material Contracts is in full force and effect and is the legal, valid, and binding obligation of the applicable Seller and, to the Knowledge of Sellers, of the other parties thereto, enforceable against each of them in accordance with its terms and, upon consummation of the Transactions, will continue in full force and effect without penalty or other adverse consequence. No Seller is in default under any Material Contract. To the Knowledge of Sellers, no other party to any Material Contract is in breach or default thereunder and no event has occurred that, with the lapse of time or the giving of notice or both, would constitute a breach or default by any Seller or any other party thereunder. No party to any of the Material Contracts has exercised any termination rights with respect thereto, and no party has given written notice or, to the Knowledge of Sellers, oral notice, of any significant dispute with respect to any Material Contract. Seller Parent has delivered or made available to Purchaser true, correct, and complete copies of all of the Material Contracts together with all amendments, modifications, or supplements thereto.

(c) No Seller has entered into any material oral contract, agreement, indenture, note, bond, mortgage, loan, instrument, lease, license, commitment, or other arrangement, understanding, undertaking, commitment, or obligation.

### 5.13 *Employee Benefits.*

(a) **Section 5.13(a)** of the Seller Disclosure Schedule sets forth a complete and correct list of (i) all “employee benefit plans”, as defined in Section 3(3) of ERISA, and all other employee benefit arrangements or payroll practices, including bonus plans, consulting or other compensation agreements, incentive, equity or equity-based compensation, deferred compensation arrangements, stock purchase, severance pay, sick leave, vacation pay, salary continuation, disability, hospitalization, medical insurance, life insurance, or scholarship programs maintained by any Seller or to which any Seller contributed or is obligated to contribute thereunder for Employees or Former Employees of such Seller or that cover Employees of such Seller (the “*Employee Benefit Plans*”). To the Knowledge of Sellers, none of the Employee Benefit Plans maintained by any Seller or any trade or business (whether or not incorporated) that is or has ever been under common control, or that is or has ever been treated as a single employer, with any Seller under Sections 414(b), (c), (m), or (o) of the Code (an “*ERISA Affiliate*”) is a multiemployer plan within the meaning of Section 4001(a)(3) of ERISA (a “*Multiemployer Plan*”), is subject to Title IV of ERISA, or provides for any continuing of benefits or coverage post-termination of employment, except as may be required under COBRA. Furthermore, neither any Seller nor any ERISA Affiliate has sponsored, maintained, contributed to, or been obligated to contribute to any Multiemployer Plan or any plan subject to Title IV of ERISA for the past six years.

(b) True, correct, and complete copies of the following documents, with respect to each of the Employee Benefit Plans and the employee benefit plans of any ERISA Affiliate (the “*ERISA Affiliate Plans*”) (as applicable), have been delivered to Purchaser: (i) any plans and related trust documents, and all amendments thereto; (ii) the most recent Forms 5500 for the past three years and schedules thereto; (iii) the most recent financial statements and actuarial valuations for the past three years; (iv) the most recent IRS determination letter; (v) the most recent summary plan descriptions (including letters or other documents updating such descriptions); and (vi) written descriptions of all non-written agreements relating to the Employee Benefit Plans and ERISA Affiliate Plans.



(c) To the Knowledge of Sellers, each of the Employee Benefit Plans and ERISA Affiliate Plans intended to qualify under section 401 of the Code (“*Qualified Plans*”) so qualify and the trusts maintained thereto are exempt from federal income taxation under section 501 of the Code, and nothing has occurred with respect to the operation of any such plan that could cause the loss of such qualification or exemption or the imposition of any liability, penalty, or tax under ERISA or the Code.

(d) All contributions and premiums required by Law or by the terms of any Employee Benefit Plan or any agreement relating thereto have been timely made (without regard to any waivers granted with respect thereto) to any funds or trusts established thereunder or in connection therewith, and no accumulated funding deficiencies exist in any of such plans subject to section 412 of the Code. All contributions for any period ending on or before the Closing Date that are not yet due will have been paid or accrued on the Balance Sheet on or before the Closing Date.

(e) There are no pending Legal Proceedings that have been asserted or instituted against any of the Employee Benefit Plans or ERISA Affiliate Plans, the assets of any such plans or any Seller, or the plan administrator or any fiduciary of the Employee Benefit Plans or ERISA Affiliate Plans with respect to the operation of such plans (other than routine, uncontested benefit claims), and to the Knowledge of Sellers there are no facts or circumstances that could form the basis for any such Legal Proceeding.

(f) Each of the Employee Benefit Plans and ERISA Affiliate Plans has been maintained, in all material respects, in accordance with its terms and all provisions of applicable Law. All amendments and actions required to bring each of the Employee Benefit Plans and ERISA Affiliate Plans into conformity in all material respects with all of the applicable provisions of ERISA and other applicable Laws have been made or taken except to the extent that such amendments or actions are not required by law to be made or taken.

(g) Neither the execution and delivery of this Agreement nor the consummation of the Transactions will (i) result in any payment becoming due to any current or former director, officer, or Employee of any Seller; (ii) increase any benefits or trigger any rights under any Employee Benefit Plan or ERISA Affiliate Plan; or (iii) result in the acceleration of the time of payment, vesting, or funding of any such benefits except as provided under applicable Law.

(h) No Seller is a party to any contract, plan, or commitment, whether legally binding or not, to create any additional Employee Benefit Plan or ERISA Affiliate Plan or to modify any existing Employee Benefit Plan or ERISA Affiliate Plan.

(i) No partnership interest or other security issued by any Seller forms or has formed a material part of the assets of any Employee Benefit Plan or ERISA Affiliate Plan.

(j) Any individual who performs services for any Seller (other than through a contract with an organization other than such individual) and who is not treated as an employee for federal income tax purposes by such Seller is not an employee for such purposes.

#### 5.14 *Labor.*

(a) No Seller is a party to any labor, collective bargaining, or similar agreement, and currently, to the Knowledge of Sellers, there are no organizational campaigns, petitions, or other unionization activities seeking recognition of a collective bargaining unit that could affect any Seller.

(b) No Employees are represented by any labor organization. No labor organization or group of Employees has made a pending demand for recognition, and there are no representation proceedings or petitions seeking a representation proceeding presently pending or, to the Knowledge of Sellers, threatened to be brought or filed with the National Labor Relations Board or other labor relations tribunal. There is no organizing activity involving any Seller pending or, to the Knowledge of Sellers, threatened by any labor organization or group of Employees.

(c) There are no (i) strikes, work stoppages, slowdowns, lockouts, or arbitrations or (ii) material grievances or other labor disputes pending or, to the Knowledge of Sellers, threatened against or involving any Seller. There are no unfair labor practice charges, grievances, or complaints pending or, to the Knowledge of Sellers, threatened by or on behalf of any Employee or group of Employees.

(d) There are no complaints, charges, or claims against any Seller pending or, to Knowledge of Sellers, threatened that could be brought or filed with any Governmental Body based on, arising out of, in connection with, or otherwise relating to the employment or termination of employment of or failure to employ any individual.

(e) Each Seller is, and since the inception of each Seller (or any predecessor entity, if applicable), has been in material compliance with all then applicable Laws, regulations and common law respecting employment, including termination of employment, WARN and any similar state or local "mass layoff" or "plant closing" Law, hiring, discrimination, civil rights, terms and conditions of employment, wages, hours, and safety and health, workers' compensation, common law employee status and the collection and payment of withholding and social security taxes and any similar tax, collective bargaining, and employment practices, and has not engaged in any unfair labor practice. There has been no "mass layoff" or "plant closing" (as defined by WARN) with respect to any Seller within the six months before Closing. Since the inception of each Seller (or any predecessor entity, if applicable), each Seller has withheld all amounts required by applicable Law or by agreement to be withheld from the wages, salaries, and other payments to its Employees, including any common law employees, and is not liable for any arrears of wages (including commissions, bonuses, or other compensation), or any taxes or any penalty for failure to comply with any of the foregoing (or, if any arrears, penalty, or interest were assessed against such Seller regarding the foregoing, it has been fully satisfied). No Seller is liable for any payment to any trust or other fund or to any Governmental Body with respect to unemployment compensation benefits, workers' compensation benefits, social security, social benefits, or other benefits or obligations for Employees (other than routine payments to be made in the normal course of business and consistent with past practice). There are no pending claims against any Seller under any workers' compensation plan or policy or for long-term disability. There are no controversies pending or, to the Knowledge of Sellers, threatened between any Seller and any of its Employees or Former Employees, which controversies have or could reasonably be expected to result in an action, suit, proceeding, claim, arbitration, or investigation before any Governmental Body, including claims for compensation, severance benefits, vacation time, vacation pay, or pension benefits, or any other claim pending in any court or administrative agency from any current Employee or Former Employee or any other person arising out of any Seller's status as employer or purported employer, or as an entity which engages independent contractors or consultants, or any workplace practices or policies whether in the form of claims for discrimination, harassment, unfair labor practices, grievances, wage and hour violations, wrongful discharge, or otherwise. To the Knowledge of Sellers, no Employees or Former Employees are, or have in the past been in, violation of any term of any employment contract, noncompetition agreement, or any restrictive covenant to a former employer relating to the right of any such Employee or Former Employee to be employed by any Seller because of the nature of the Business or work performed by the Employee or Former Employee or to the use of trade secrets or proprietary information of others.

5.15 **Litigation.** There is no Legal Proceeding pending or, to the Knowledge of Sellers, threatened against or affecting any Seller or any of its assets (or to the Knowledge of Sellers, pending or threatened against any of the officers, directors, or Employees or Former Employees of any Seller with respect to their business activities on behalf of any Seller), or to which any Seller is otherwise a party. To the Knowledge of Sellers, there is no reasonable basis for any such Legal Proceeding. Sellers are not subject to any Order, and Sellers are not in breach or violation of any Order. No Seller is engaged in any legal action to recover monies due it or for damages sustained by it. There are no Legal Proceedings pending or, to the Knowledge of Sellers, threatened against any Seller or to which any Seller is otherwise a party relating to this Agreement or any Seller Document or the Transactions.

5.16 **Compliance with Laws; Permits.**

(a) Each Seller is in compliance in all material respects with all Laws applicable to its operations, the Purchased Assets, or the Business. No Seller has received any written notice, or, to the Knowledge of Sellers, oral notice, of or been charged with the violation of any Laws. To the Knowledge of Sellers, no Seller is under investigation with respect to the violation of any Laws and there are no facts or circumstances that could form the basis for any such violation. No Seller has violated any applicable Law concerning the export or re-export of any products or services or the boycott of any country.

(b) **Section 5.16(b)** of the Seller Disclosure Schedule contains a true and complete list of all material Permits that are required for the Business (“**Seller Permits**”), and each Seller currently has all Seller Permits that it is required to have. No Seller is in default or violation, and no event has occurred that, with notice or the lapse of time or both, would constitute a default or violation in any material respect of any term, condition, or provision of any Seller Permit and, to the Knowledge of Sellers, there are no facts or circumstances that could form the basis for any such default or violation. None of the Seller Permits will be impaired or in any way affected by the consummation of the Transactions.

5.17 **Environmental Matters.**

(a) To the Knowledge of Sellers, the operations of the Business are, and have at all times been in, compliance with all applicable Environmental Laws, including obtaining, maintaining in good standing, and complying with all Environmental Permits. No action or proceeding is pending or, to the Knowledge of Sellers, threatened to revoke, modify, or terminate any such Environmental Permit, and, to the Knowledge of Sellers, no facts, circumstances, or conditions currently exist that could adversely affect continued compliance with Environmental Laws and Environmental Permits or require currently unbudgeted capital expenditures to achieve or maintain continued compliance with Environmental Laws and Environmental Permits.

(b) No Seller is the subject of any outstanding written Order or Contract with any Governmental Body or Person with respect to (i) Environmental Laws, (ii) Remedial Action, or (iii) any Release or threatened Release of a Hazardous Material.

(c) No Seller has received written, or, to the Knowledge of Sellers, oral notice, of any claim against any Seller alleging that any Seller may be in violation of any Environmental Law or Environmental Permit or may have any Liability under any Environmental Law and, to the Knowledge of Sellers, no such claim has been threatened.

(d) To the Knowledge of Sellers, no facts, circumstances, or conditions exist with respect to any Seller or any property currently or formerly operated, or leased by any Seller or any property to which

any Seller arranged for the disposal or treatment of Hazardous Materials that could reasonably be expected to result in any Seller incurring unbudgeted Environmental Costs and Liabilities.

(e) To the Knowledge of Sellers, there are no investigations by any Governmental Body of the Business, the Real Property Leases, or previously operated or leased property of any Seller pending or threatened that could lead to the imposition on Sellers of any Environmental Costs and Liabilities or Liens under Environmental Law.

(f) The Transactions do not require the consent of or filings with any Governmental Body with respect to environmental matters.

(g) To the Knowledge of Sellers, there are no (i) underground storage tanks, (ii) landfills, (iii) surface impoundments, (iii) asbestos-containing materials, or (iv) items of equipment containing polychlorinated biphenyls located at the Leased Real Property. For any properties previously operated or leased by any Seller, to the Knowledge of Sellers, there were none of the items listed in clauses (i) through (iv) located at such properties during the time that such Seller operated or leased such properties.

(h) Seller Parent has provided to Purchaser all written environmentally related audits, studies, reports, analyses, and results of investigations that have been performed with respect to the Leased Real Property or any real property previously owned, leased or operated by any Seller, and that were, at any time, provided to any of the Sellers.

#### 5.18 *Insurance.*

(a) Each Seller has insurance policies in full force and effect (i) for such amounts as are sufficient for all requirements of Law and all agreements to which it is a party or by which it is bound and (ii) that are in such amounts, with such deductibles and against such risks and losses, as are reasonable for the Business and its assets and properties, subject to reasonable deductibles, and the risks insured against are normal and customary for the industry. **Section 5.18** of the Seller Disclosure Schedule lists all insurance policies, fidelity bonds, and financial responsibility certificates held by or applicable to each Seller, including, for each, the policy name, policy number, carrier, term, type and amount of coverage, annual premium, and whether the policy may be terminated upon consummation of the Transactions.

(b) No event relating to any Seller has occurred that could reasonably be expected to result in a retroactive upward adjustment in premiums under any insurance policies or that could reasonably be expected to result in a prospective upward adjustment in such premiums. Excluding insurance policies that have expired and been replaced in the Ordinary Course of Business, no insurance policy has been cancelled within the last two years and, to the Knowledge of Sellers, no threat has been made to cancel any insurance policy of any Seller during such period. All such insurance policies will remain in full force and effect through the Closing Date. No event has occurred, including the failure by any Seller to give any notice or information, or any Seller giving any inaccurate or erroneous notice or information, that limits or impairs the rights of any Seller under any such insurance policies.

#### 5.19 *Accounts and Notes Receivable and Payable.*

(a) **Section 5.19** of the Seller Disclosure Schedule lists and shows the aging of all the accounts receivable (i) reflected on the Balance Sheet or (ii) arising after the Balance Sheet Date. All accounts and notes receivable have arisen from bona fide transactions in the Ordinary Course of Business consistent with past practice and are payable on ordinary trade terms. All accounts and notes receivable (A) reflected on the Balance Sheet or (B) arising after the Balance Sheet Date are good and collectible at the aggregate

recorded amounts thereof, net of any applicable reserve for returns or doubtful accounts, and all such reserves are adequate and were calculated in a manner consistent with past practice and in accordance with GAAP consistently applied. None of the accounts or the notes receivable (1) are subject to any setoffs or counterclaims or (2) represent obligations for goods sold on consignment, on approval, or on sale-or-return basis or subject to any other repurchase or return arrangement.

(b) All accounts payable reflected in the Balance Sheet or arising after the Balance Sheet Date are the result of bona fide transactions in the Ordinary Course of Business and have been paid or are not yet due and payable.

#### 5.20 *Customers and Suppliers.*

(a) **Section 5.20** of the Seller Disclosure Schedule lists (i) each customer that accounted for more than \$100,000 in revenues of the Business during either the last full fiscal year or the interim period through the Balance Sheet Date (each, a “**Significant Customer**”) and the percentage of total revenues of the Business such Significant Customer represented during the previous twenty-four (24) months and (ii) each supplier that is the sole supplier of any significant product or service to the Business. No purchase order or commitment of any Seller are in excess of normal requirements, nor are prices provided therein in excess of current market prices for the products or services to be provided thereunder.

(b) No Seller has any outstanding dispute that has been communicated in writing or, to the Knowledge of Sellers, orally to any Seller concerning any Seller’s business operations or services with any Significant Customer. No Seller has received any written notice, or, to the Knowledge of Sellers, oral notice, from any Significant Customer that such customer will not continue as a customer of the Business after Closing or that such customer intends to terminate or materially modify existing agreements relating to the Business. To the Knowledge of Sellers, no other customer of the Business has asserted any claims of breach of warranty with regard to such services nor does any Seller have any indemnity liability for any such services to any other customer. To the Knowledge of Sellers, no customer has any interest in any real or personal, tangible or intangible property used in or pertaining to the Business.

5.21 **Related Party Transactions.** No Seller (a) owes any amount to any Related Person; (b) is involved in any business arrangement or other relationship with any Related Person (whether written or oral); (c) owns any property or right, tangible or intangible, that is used by any Related Person; (d) has any claim or cause of action against any Related Person; or (e) controls, owns any direct or indirect interest of any kind in, is a director, manager, officer, employee, or partner of, is a consultant to, is a lender to or borrower from, or has the right to participate in the profits of any Person that is a competitor, supplier, customer, landlord, tenant, creditor, or debtor of any Seller. No Related Person owes any amount to any Seller or has committed to make any loan or extend or guarantee credit to or for the benefit of any Seller, or owns any property or right, tangible or intangible, that is used by any Seller.

5.22 **Non-Compete Agreements.** No Seller is a party to any written or, to the Knowledge of Sellers, oral, agreement in the nature of a non-compete or exclusivity agreement or that otherwise limits or restricts the ability of any Seller, or would after the Closing limit or restrict the ability of Purchaser, to compete or otherwise conduct its business in any manner or place.

5.23 **Banks.** **Section 5.23** of the Seller Disclosure Schedule lists (a) the names and locations of all banks with which each Seller has accounts or safe deposit boxes, (b) the account numbers of all such accounts, and (c) the names of all persons authorized to draw thereon or to have access thereto. No person holds a power of attorney to act on behalf of any Seller.

5.24 **Financial Advisors.** Except for Hyde Park Capital Partners, LLC pursuant to the engagement letter in the form provided to Purchaser by Seller Parent, no Person has acted, directly or indirectly, as a broker, finder, or financial advisor for Sellers in connection with the Transactions, and no Person is or will be entitled to any fee or commission or like payment in respect thereof.

5.25 **Certain Payments.** No Seller or, to the Knowledge of Sellers, any director, officer, employee, or other Person associated with or acting on behalf of any of them has directly or indirectly (a) made any contribution, gift, bribe, rebate, payoff, influence payment, kickback, or other payment to any Person, private or public, regardless of form, whether in money, property, or services (i) to obtain favorable treatment in securing business for any Seller, (ii) to pay for favorable treatment for business secured by any Seller, (iii) to obtain special concessions or for special concessions already obtained for or in respect of any Seller, or (iv) in violation of any applicable Law or (b) established or maintained any fund or asset with respect to any Seller that has not been recorded in the books and records of Sellers.

5.26 **Guarantees or Suretyships.** No Seller has any obligations or liabilities (absolute or contingent) as guarantor, surety, cosigner, endorser, co-maker, indemnitor, or otherwise with respect to the obligations or Liabilities of any Person.

5.27 **Complete Copies of Materials.** Seller Parent has delivered or made available to Purchaser copies of each document listed in the Seller Disclosure Schedule and such copies are true and complete copies of such documents, including all amendments, supplements and modifications thereto, in all material respects. The documents attached to the Seller Disclosure Schedule are the same versions of the corresponding documents that were available on Seller's RR Donnelley Venue electronic datasite on the Closing Date.

5.28 **Full Disclosure.** No representation or warranty of the Selling Parties contained in this Agreement or in any of the Seller Documents and no written statement made by or on behalf of the Selling Parties to Purchaser or any of its Affiliates pursuant to this Agreement or any of the Seller Documents contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading. There are no facts which the Selling Parties have not disclosed to Purchaser in writing that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

## ARTICLE VI

### REPRESENTATIONS AND WARRANTIES OF THE PURCHASING PARTIES

The Purchasing Parties, jointly and severally, represent and warrant to Sellers, and acknowledge that Sellers are relying upon such representations and warranties in connection with the Transactions, that the statements contained in this *Article VI* are true and correct, except as set forth in the correspondingly numbered disclosure schedules delivered by the Purchasing Parties to Sellers (the "**Purchaser Disclosure Schedule**") dated as of the Closing Date.

6.1 **Organization and Good Standing.** Purchaser is a corporation duly organized, validly existing and subsisting under the Laws of the State of Nevada. Purchaser Parent is a corporation duly organized, validly existing and subsisting under the Laws of the State of Washington.

6.2 **Authorization of Agreement.** Each Purchasing Party has full corporate power and authority to execute and deliver this Agreement and each other agreement, document, instrument, or certificate contemplated by this Agreement or to be executed by such Purchasing Party in connection with the

consummation of the Transactions (collectively, the “**Purchaser Documents**”), to perform its obligations hereunder and thereunder, and to consummate the Transactions. The execution, delivery, and performance by the Purchasing Parties of this Agreement and each Purchaser Document have been duly authorized by all necessary corporate action on behalf of the Purchasing Parties. This Agreement and each Purchaser Document has been duly and validly executed and delivered by each Purchasing Party that is a party thereto and (assuming the due authorization, execution, and delivery by the other parties hereto and thereto) this Agreement and each Purchaser Document constitute the legal, valid, and binding obligation of the Purchasing Parties, enforceable against them in accordance with their respective terms, except to the extent that enforceability may be limited by the effect of (a) any applicable bankruptcy, insolvency, reorganization, moratorium, and similar Laws affecting the enforcement of creditors’ rights and remedies generally, and (b) general principles of equity, including principles of commercial reasonableness, good faith, and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity).

**6.3 Conflicts; Consents of Third Parties.**

(d) None of the execution and delivery by the Purchasing Parties of this Agreement or the Purchaser Documents, the consummation of the Transactions, or the compliance by any Purchasing Party with any of the provisions hereof or thereof will (i) conflict with, (ii) result in any violation or breach of or default (with or without notice or lapse of time, or both) under, (iii) give rise to a right of termination, cancellation or acceleration of any obligation or the loss of a material benefit under, or (iv) give rise to any obligation to make any payment under or to increased, additional, accelerated, or guaranteed rights or entitlements of any Person under any provision of (A) the articles of incorporation and bylaws of any Purchasing Party; (B) any Contract or Permit to which any Purchasing Party is a party or by which any of the properties or assets of the Purchasing Parties are bound; (C) any Order of any Governmental Body applicable to any Purchasing Party or by which any of the properties or assets of any Purchasing Party are bound; or (D) any applicable Law.

(e) No consent, waiver, approval, Order, Permit, or authorization of, declaration or filing with, or notification to any Person or Governmental Body is required on the part of any Purchasing Party in connection with (i) the execution and delivery of this Agreement or the Purchaser Documents, the compliance by any Purchasing Party with any of the provisions hereof or thereof, the consummation of the Transactions, or the taking by Purchasing Party of any other action contemplated hereby or thereby or (ii) the continuing validity and effectiveness immediately following the Closing of any Contract or Permit of Purchasing Party. Neither the execution and delivery of this Agreement nor the consummation of the Transactions are subject to any filing pursuant to the HSR Act.

**6.4 Litigation.** There are no Legal Proceedings pending or, to the knowledge of the Purchasing Parties, threatened that are reasonably likely to prohibit or restrain the ability of the Purchasing Parties to enter into this Agreement or to consummate the Transactions.

**6.5 Financial Advisors.** No Person has acted, directly or indirectly, as a broker, finder, or financial advisor for the Purchasing Parties in connection with the Transactions and no Person is entitled to any fee or commission or like payment in respect thereof.

**6.6 Full Disclosure.** No representation or warranty of the Purchasing Parties contained in this Agreement or in any of the Purchaser Documents and no written statement made by or on behalf of the Purchasing Parties to any Seller pursuant to this Agreement or any of the Purchaser Documents contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading.

## ARTICLE VII

### POST-CLOSING COVENANTS

#### 7.1 *Non-Competition; Non-Solicitation; Confidentiality.*

(d) For a period from the Closing Date until the fifth anniversary of the Closing Date, Sellers will not and will cause their Affiliates not to, directly or indirectly, own, manage, operate, control, or participate in the ownership, management, operation, or control of any business, whether in corporate, proprietorship, or partnership form or otherwise, engaged in the Business or that otherwise competes with the Business (a “**Restricted Business**”); provided that the restrictions contained in this **Section 7.1(a)** will not restrict the acquisition by Sellers, directly or indirectly, of less than 2% of the outstanding capital stock of any publicly traded company engaged in a Restricted Business; and provided, further, that Purchaser specifically acknowledges and agrees that each of the businesses listed on **Schedule 7.1(a)** will not be a Restricted Business for purposes of this **Section 7.1(a)**. The Parties specifically acknowledge that the remedy at law for any breach of the foregoing will be inadequate and that Purchaser, in addition to any other relief available to it, will be entitled to temporary and permanent injunctive relief without the necessity of proving actual damage or posting any bond whatsoever.

(e) For a period from the Closing Date to the fifth anniversary of the Closing Date, Sellers will not and will cause their managers, directors, officers, employees, and Affiliates not to: (i) cause, solicit, induce, or encourage any Employees of any Seller or Purchaser to leave such employment or hire, employ, or otherwise engage any such individual, or (ii) cause, induce, or encourage any material actual or prospective client, customer, supplier (including any content providers), or licensor of the Business (including any existing or former customer of any Seller and any Person that becomes a client or customer of the Business after the Closing) or any other Person who has a material business relationship with the Business to terminate or modify any such actual or prospective relationship; provided, however, that Purchaser specifically acknowledges and agrees that each of the businesses listed on **Schedule 7.1(a)** are permitted to solicit, hire, employ, or otherwise engage each or all of the individuals listed on **Schedule 7.1(b)** following the expiration or termination of the Transition Services Agreement.

(f) From and after the Closing Date, the Selling Parties will not and will cause their Affiliates and their respective officers and directors not to, directly or indirectly, disclose, reveal, divulge, or communicate to any Person other than authorized officers, directors, and employees of the Purchasing Parties or use or otherwise exploit for its own benefit or for the benefit of anyone other than the Purchasing Parties any Confidential Information (as defined below). The Selling Parties and their officers, directors, and Affiliates will not have any obligation to keep confidential any Confidential Information if and to the extent disclosure thereof is specifically required by applicable Law; provided that in the event disclosure is required by applicable Law, the Selling Parties will, to the extent reasonably possible, provide Purchaser with prompt written notice of such requirement prior to making any disclosure so that Purchaser may seek an appropriate protective order. For purposes of this **Section 7.1(c)**, “**Confidential Information**” means any information with respect to the Business and the Purchased Assets, including methods of operation, customers, customer lists, products, prices, fees, costs, Technology, inventions, Trade Secrets, know-how, Software, marketing methods, plans, personnel, suppliers, competitors, markets, or other specialized information or proprietary matters. Confidential Information does not include, and there will be no obligation hereunder with respect to, information that (i) is generally available to the public on the date of this Agreement or (ii) becomes generally available to the public other than as a result of a disclosure not otherwise permissible hereunder.



(g) The covenants and undertakings contained in this **Section 7.1** relate to matters that are of a special, unique and extraordinary character and a violation of any of the terms of this **Section 7.1** will cause irreparable injury to Purchaser, the amount of which will be impossible to estimate or determine and that cannot be adequately compensated. Accordingly, the remedy at law for any breach of this **Section 7.1** will be inadequate. Therefore, in addition to seeking damages, Purchaser will be entitled to an injunction, restraining order, or other equitable relief from any court of competent jurisdiction in the event of any breach of this **Section 7.1** without the necessity of proving actual damages or posting any bond whatsoever. The rights and remedies provided by this **Section 7.1** are cumulative and in addition to any other rights and remedies that Purchaser may have hereunder or at law or in equity. In the event that Purchaser seeks damages for any breach of this **Section 7.1**, the portion of the Total Consideration that is allocated by the Parties to the foregoing covenant will not be considered a measure of or limit on such damages.

(h) If any court of competent jurisdiction in a final nonappealable judgment determines that a specified time period, a specified geographical area, a specified business limitation, or any other relevant feature of this **Section 7.1** is unreasonable, arbitrary, or against public policy, then a lesser time period, geographical area, business limitation, or other relevant feature that is determined by such court to be reasonable, not arbitrary, and not against public policy may be enforced against the applicable Party.

(i) The Purchasing Parties acknowledge and agree that the provision of services to be provided by Sellers to the Purchasing Parties pursuant to the Transition Services Agreement will not be deemed a breach of this **Section 7.1**.

**7.2 Preservation of Records.** Each of the Selling Parties and Purchaser will preserve and keep at Purchaser's reasonable cost and expense, the records held by them or their respective Affiliates relating to the Purchased Assets and Assumed Liabilities and Excluded Liabilities with respect to the pre-Closing period for a period of seven (7) years from the Closing Date and will make such records and personnel available to the other as may be reasonably required by such Party in connection with, among other things, any insurance claims by, legal proceedings against, or governmental investigations of the Selling Parties or Purchaser or any of their respective Affiliates or in order to enable the Selling Parties or Purchaser to comply with their respective obligations under this Agreement and each other agreement, document, or instrument contemplated hereby or thereby. In the event the Selling Parties or Purchaser wish to destroy (or permit to be destroyed) such records after that time, such Party will first give ninety (90) days' prior written notice to the other Parties and such other Parties will have the right at their option and expense, upon prior written notice given to such Parties within that 90-day period, to take possession of the records within one hundred eighty (180) days after the date of such notice.

**7.3 Publicity.** Neither the Selling Parties nor Purchaser will issue any press release or public announcement concerning this Agreement or the Transactions without obtaining the prior written approval of the other Parties, which approval will not be unreasonably withheld or delayed, unless, in the sole judgment of such Parties, disclosure is otherwise required by applicable Law or by the applicable rules of any stock exchange on which such Party lists securities, provided that, to the extent required by applicable Law, the Party intending to make such release will use its commercially reasonable efforts consistent with such applicable Law to consult with the other Parties with respect to the timing and content thereof. No Party will disclose or otherwise make available to the public the terms of this Agreement (including the Base Purchase Price, the Closing Cash and the Total Consideration) or copies of this Agreement, except where such disclosure, availability, or filing is required by applicable Law and only to the extent required by such Law. In the event that such disclosure, availability, or filing is required by applicable Law, each of Purchaser and the Selling Parties (as applicable) agrees to use their commercially reasonable efforts to obtain

“confidential treatment” of this Agreement with such Governmental Body and to redact such terms of this Agreement as the other Parties may request, to the extent allowed by applicable Law.

7.4 **Use of Name.** Upon the Closing, (a) Purchaser will have the sole right to the use of the names MDT Personnel, MDT Staffing, Disaster Recovery, or similar names, and any service marks, trademarks, trade names, d/b/a names, fictitious names, identifying symbols, logos, emblems, signs, or insignia related thereto or containing or comprising the foregoing, or otherwise used in the Business, including any name or mark confusingly similar thereto (collectively, the “**Seller Marks**”) and (b) Sellers will not, and will not permit any Affiliate to, use such name or any variation or simulation thereof or any of the Seller Marks; provided that Sellers may continue to use the foregoing in the performance of their obligations under the Transition Services Agreement. Within five (5) Business Days after the expiration or termination of the Transition Services Agreement, or upon earlier request of Purchaser, Sellers, as applicable, will change their names to no longer include the names MDT Personnel, MDT Staffing, Disaster Recovery, or any variation thereof.

7.5 **Real Property Leases.** After the Closing, Purchaser will use commercially reasonable efforts to cause the counterparties under the Real Property Leases to discharge all of the Liabilities of Sellers under each of the Real Property Leases that arise out of or relate to the period from and after the Closing Date, in each case without causing any unduly burdensome detriment (economic or otherwise) to the Selling Parties. Nothing in this **Section 7.5** shall limit or affect Purchaser’s obligations to assume all Liabilities of Sellers under each of the Real Property Leases that arise out of or relate to the period from and after the Closing Date pursuant to **Section 2.3(c)**. Purchaser shall provide evidence (e.g., a copy of a cancelled check or a discharge or release document executed by the applicable landlord) of each such discharge of Liabilities under the Real Property Leases.

7.6 **Release of Support Obligations.**

(l) Purchaser recognizes that the Member has provided guarantees or other credit support to Sellers with respect to the Business, all of which that are outstanding as of the date of this Agreement are set forth on **Schedule 2.3(d)** (such support obligations contained in **Schedule 2.3(d)**, as modified or replaced from time to time in the Ordinary Course of Business, are hereinafter referred to as “**Support Obligations**”).

(m) Purchaser will use commercially reasonable efforts to cause the beneficiary or beneficiaries of such Support Obligations to (i) remit any cash to the Member held under any escrow arrangement that is a Support Obligation promptly following the replacement of such escrow arrangement pursuant to **Section 7.6(c)(ii)**, and (ii) terminate, surrender and redeliver to the Member each original copy of each original guaranty, letter of credit or other instrument constituting or evidencing such Support Obligations.

(n) Purchaser and the Member will cooperate and use commercially reasonable efforts to obtain the complete and unconditional release of the Member from any Support Obligations after the Closing Date (each such unreleased Support Obligation, until such time as such Support Obligation is released in accordance with this **Section 7.6(c)**, a “**Continuing Support Obligation**”). Until such Continuing Support Obligations are so released:

(i) Purchaser will indemnify the Member from and against any Liabilities, losses and reasonable costs or expenses incurred by the Member from and after the Closing Date in connection with each Continuing Support Obligation (including any demand or draw upon, or withdrawal from, any Continuing Support Obligation) as it relates to the period from and after the Closing Date; and

(ii) Purchaser will not, and will cause its Affiliates not to, effect any amendments or modifications or any other changes to the Contracts or obligations to which any of the Continuing Support Obligations relate, or to otherwise take any action that could increase, extend or accelerate the Liability of the Member under any Continuing Support Obligation, without the Member's prior written consent, which, subject to the application of the provisions of this *Section 7.6(c)* to any such increase, extension or acceleration, will not be unreasonably withheld or delayed.

## ARTICLE VIII

### EMPLOYEES

8.1 *Offers of Employment.* Unless otherwise agreed to by the Parties, upon satisfactory completion of Purchaser's standard and customary pre-employment screening, which may include a background check, an interview and similar screening, Purchaser will offer employment to all Transferred Employees (i.e., branch personnel and sales personnel) who are employed by Sellers as of the Closing Date, with such employment to be effective no later than the expiration or termination of the Transition Services Agreement. Purchaser will not terminate any such Transferred Employees so hired, other than termination for cause, during the period ending sixty (60) days after the Closing.

8.2 *Cooperation.* Following the Closing, Sellers will cooperate with regard to the recruitment and hiring of employees by Purchaser. Sellers will use commercially reasonable efforts to assist Purchaser with its recruitment efforts. Sellers will cooperate with Purchaser to develop appropriate communications to Employees regarding the Transactions and a transition plan following Closing, including delivering other notices to Employees as requested by Purchaser.

8.3 *Obligations.* Sellers will be solely responsible, and Purchaser will have no obligations whatsoever for, any compensation or other amounts payable to any Employee or Former Employee including hourly pay, commission, bonus, salary, accrued vacation, fringe, pension or profit sharing benefits or severance pay for any period of employment prior to the Closing Date, except as may be set forth in *Section 2.3(b)* or reflected in payments made by Purchaser Parent under the Transition Services Agreement.

## ARTICLE IX

### CLOSING DELIVERABLES

9.1 *Items Delivered by Sellers at Closing.* At or prior to the Closing, Sellers delivered, or caused to be delivered, the following to Purchaser:

(a) copies of (i) all consents, approvals, Orders, or authorizations of or registrations, declarations, or filings with, any Governmental Body required to be obtained or made in connection with the execution and delivery of this Agreement or the consummation of the Transactions and (ii) all consents, waivers and approvals listed on *Schedule 9.1(a)*;

(b) certificates of good standing or subsistence dated not more than ten (10) days prior to the Closing Date with respect to each Seller issued by the secretary of state of the applicable state for formation or organization;

(c) duly executed Non-Competition and Non-Solicitation Agreement from Member;

(d) duly executed bills of sale from each Seller;

- (e) duly executed Assignment and Assumption Agreements and duly executed assignments of the registrations and applications included in the Purchased Intellectual Property and general assignments of all other Purchased Intellectual Property from each Seller;
- (f) all instruments and documents necessary to release any and all Liens on the Purchased Assets, including appropriate UCC financing statement amendments (termination statements);
- (g) copies of resolutions as to the due authorization of this Agreement and all of the Transactions from each Seller and copies of each Seller's organization documents, each certified by its secretary or manager, as applicable;
- (h) releases and waivers from each of the parties in the matters set forth on **Schedule 9.1(h)** releasing all claims and waiving all rights against Purchaser; and
- (i) the Transition Services Agreement duly executed by Seller Parent.

9.2 **Items Delivered by Purchaser at Closing.** At or prior to the Closing, Purchaser delivered, or caused to be delivered, the following to Sellers:

- (a) the Closing Cash (less the adjustments thereto) pursuant to Section 3.2;
- (b) copies of consents, approvals, Orders, or authorizations of, or registrations, declarations, or filings with, any Governmental Body required to be obtained or made by it in connection with the execution and delivery of this Agreement or the consummation of the Transactions;
- (c) duly executed Assignment and Assumption Agreements with respect to each Seller;
- (d) copies of resolutions as to the due authorization of this Agreement and all of the Transactions by each of the Purchasing Parties and copies each of the Purchasing Parties organization documents, each certified by its secretary or manager, as applicable;
- (e) the Indemnification Agreement;
- (f) a payoff letter from Synovus with respect to the Synovus Debt; and
- (g) the Transition Services Agreement duly executed by Purchaser.

## ARTICLE X

### INDEMNIFICATION

10.1 **Survival of Representations and Warranties.** The representations and warranties of the Parties contained in this Agreement, any certificate delivered pursuant hereto, or any Seller Document or Purchaser Document will survive the Closing through and including the date that is sixteen (16) months after the Closing Date (the "**General Survival Period**"); provided, however, that (a) the Core Seller Representations (other than the representations and warranties of the Selling Parties contained in **Sections 5.8 (Taxes)** and **5.13 (Employee Benefits)**) and the Core Purchaser Representations will survive the Closing forever (in each case, the "**Survival Period**"), (b) the representations and warranties of the Selling Parties contained in **Sections 5.8 (Taxes)** and **5.13 (Employee Benefits)** shall expire on the expiration date of the applicable statute of limitations, and (c) any claim with respect to any fraudulent, intentional, or willful breach of any

representation will survive and can be made by a Purchaser Indemnified Party forever; provided, however, that any obligations under **Sections 10.2(a)(i)** and **10.2(b)(i)** will not terminate with respect to any Losses as to which the Person to be indemnified will have given written notice to the indemnifying party in accordance with **Section 10.3(a)** before the termination of the applicable Survival Period. Notwithstanding anything to the contrary in this **Section 10.1**, the indemnification obligations pursuant to this **Article X** will not terminate with respect to (A) any indemnification claim made by a Purchaser Indemnified Party or a Seller Indemnified Party, as the case may be, prior to the expiration of the applicable Survival Period until such claim is resolved or (B) a Potential Loss until the earlier to occur of the date on which (y) such Potential Loss is determined to have resulted in any Loss (defined below) to the potential indemnified party and such party has made a related claim for indemnification with respect to such Loss pursuant to this **Article X** (provided, that such claim must be made, if at all, within ninety (90) days following the date on which the indemnified party has actual knowledge that such Potential Loss is determined to have resulted in a Loss) and (z) the potential indemnified party ceases to have a reasonable basis to believe that such Potential Loss may result in a Loss.

## 10.2 **Indemnification.**

(q) From and after the Closing and subject to **Sections 10.1 (Survival of Representations and Warranties)**, **10.3 (Indemnification Procedures)**, **10.4 (Limitations on Indemnification for Breaches of Representations and Warranties)**, and **10.5 (Indemnity Escrow)**, Sellers, jointly and severally indemnify, defend, and hold Purchaser and its Affiliates and their respective directors, managers, officers, employees, equity holders, members, partners, agents, attorneys, representatives, successors, and assigns (collectively, the "**Purchaser Indemnified Parties**") harmless from and against, and agree to pay to the applicable Purchaser Indemnified Parties the amount of, any and all losses, liabilities, claims, obligations, deficiencies, demands, judgments, damages (including incidental and consequential damages), interest, fines, penalties, claims, suits, actions, causes of action, assessments, awards, costs, and expenses (including costs of investigation and defense and attorneys' and other professionals' fees), or any diminution in value, whether or not involving a third party claim (individually, a "**Loss**" and, collectively, "**Losses**") based upon, attributable to, or resulting from:

(i) any breach of the representations or warranties made by any of the Selling Parties in this Agreement or in any Seller Document as of the Closing Date, except to the extent that any such representation or warranty relates to a specific date, in which case the failure of such representation or warranty to be true and correct as of such date;

(ii) any breach of any covenant or other agreement on the part of any of the Selling Parties under this Agreement or in any Seller Document;

(iii) with respect to any Employee, (A) any employment-related liability (statutory or otherwise) with respect to employment or termination of employment on or prior to the Closing Date, (B) any liability relating to, arising under, or in connection with any Employee Benefit Plan, including any liability under COBRA, whether arising on or prior to the Closing Date, and (C) any liability under WARN, in each case regardless of when a claim giving rise to such liability is asserted;

(iv) any Excluded Asset or any Excluded Liability;

(v) any Tax Liability of any of the Selling Parties, and any Tax Liability relating to the Purchased Assets or the Business for any Tax period or portion thereof ending on or prior to the Closing Date (except for any Taxes specifically allocated to Purchaser under **Section 11.2**);

(vi) any event, condition, circumstance, activity, practice, incident, action, omission, negligence, fault, or plan initially existing or occurring (or alleged to have occurred) prior to the Closing relating to or involving in any way any Selling Party or the Business, including any pending or threatened (at any time prior to Closing) Legal Proceeding involving any Selling Party or the Business and relating to any such event, condition, circumstance, activity, practice, incident, action, omission, or plan (whether or not any such event, condition, circumstance, act, practice, incident, action, omission, negligence, fault, plan, or Legal Proceeding has been disclosed on any disclosure schedule or otherwise to Purchaser);

(vii) Any Seller (A) instituting proceedings under any applicable bankruptcy Law, (B) having a bankruptcy proceeding filed against it, (C) filing a petition or answer of consent seeking reorganization under any bankruptcy or any similar Law or similar statute, (D) consenting to the filing of any such petition, (E) having appointed a Custodian of it or any of its assets or property, (F) making a general assignment for the benefit of creditors, (G) admitting in writing its inability to pay its debts generally as they become due, (H) becoming insolvent, (I) failing generally to pay its debts as they become due, or (J) taking any corporate action in furtherance of or to facilitate, conditionally or otherwise, any of the foregoing; and

(viii) the matters set forth on *Schedule 10.2(a)(viii)*.

(r) From and after the Closing and subject to *Sections 10.1 (Survival of Representations and Warranties)*, *10.3 (Indemnification Procedures)* and *10.4 (Limitations on Indemnification for Breaches of Representations and Warranties)*, Purchaser will indemnify and hold Sellers and their respective Affiliates, equity holders, directors, officers, employees, members, partners, agents, attorneys, representatives, successors, and permitted assigns (collectively, the “*Seller Indemnified Parties*”) harmless from and against, and pay to the applicable Seller Indemnified Parties the amount of, any and all Losses based upon, attributable to, or resulting from:

(i) any breach of any of the representations or warranties made by any of the Purchasing Parties in this Agreement or in any Purchaser Document as of the Closing Date, except to the extent that any such representation or warranty relates to a specific date, in which case the failure of such representation or warranty to be true and correct as of such date;

(ii) any breach of any covenant or other agreement on the part of Purchaser under this Agreement or any Purchaser Document;

(iii) any Assumed Liability; and

(iv) any Tax Liability of any of Sellers, and any Tax Liability relating to the Purchased Assets or the Business for any Tax period or portion thereof commencing on the Closing Date (except for any Taxes specifically allocated to Sellers under *Section 11.2*).

### 10.3 *Indemnification Procedures.*

(o) A claim for indemnification for any matter not involving a third-party claim may be asserted by written notice to the Party from whom indemnification is sought; provided that failure to so notify the indemnifying party will not preclude the indemnified party from any indemnification that it may claim in accordance with this *Article X*.

(p) In the event that any Legal Proceedings will be instituted or that any claim or demand will be asserted by any third party in respect of which indemnification may be sought under *Section 10.2* (regardless of the limitations set forth in *Section 10.4*) (“*Third Party Claim*”), the indemnified party will

promptly cause written notice of the assertion of any Third Party Claim of which it has knowledge that is covered by this indemnity to be forwarded to the indemnifying party. The failure of the indemnified party to give reasonably prompt notice of any Third Party Claim will not release, waive, or otherwise affect the indemnifying party's obligations with respect thereto except to the extent that the indemnifying party can demonstrate actual material loss and prejudice as a result of such failure. Subject to the provisions of this **Section 10.3**, the indemnifying party will have the right, at its sole expense, to be represented by counsel of its choice, which counsel must be reasonably satisfactory to the indemnified party, and to defend against, negotiate, settle, or otherwise deal with any Third Party Claim that relates to any Losses indemnified against by it hereunder; provided that the indemnifying party will have acknowledged in writing to the indemnified party its unqualified obligation to indemnify the indemnified party as provided hereunder. If the indemnifying party elects to defend against, negotiate, settle, or otherwise deal with any Third Party Claim that relates to any Losses indemnified against by it hereunder, it will within five (5) days of the indemnified party's written notice of the assertion of such Third Party Claim (or sooner, if the nature of the Third Party Claim so requires) notify the indemnified party of its intent to do so; provided that the indemnifying party must conduct its defense of the Third Party Claim actively and diligently thereafter in order to preserve its rights in this regard. If the indemnifying party elects not to defend against, negotiate, settle or otherwise deal with any Third Party Claim that relates to any Losses indemnified against by it hereunder, fails to notify the indemnified party of its election as herein provided, or contests its obligation to indemnify the indemnified party for such Losses under this Agreement, the indemnified party may defend against, negotiate, settle, or otherwise deal with such Third Party Claim. If the indemnified party defends any Third Party Claim, then the indemnifying party will reimburse the indemnified party for the expenses of defending such Third Party Claim upon submission of periodic bills. If the indemnifying party will assume the defense of any Third Party Claim, the indemnified party may participate, at his, her, or its own expense, in the defense of such Third Party Claim; provided that such indemnified party will be entitled to participate in any such defense with separate counsel at the expense of the indemnifying party if in the reasonable opinion of counsel to the indemnified party a conflict or potential conflict exists between the indemnified party and the indemnifying party that would make such separate representation advisable; and provided further that the indemnifying party will not be required to pay for more than one such counsel (plus any appropriate local counsel) for all indemnified parties in connection with any Third Party Claim. Each party will cooperate with the other in all reasonable respects in connection with the defense of any Third Party Claims, and each Party will provide reasonable access to each other Party to such documents and information as may reasonably be requested in connection with the defense, negotiation, or settlement of any such Third Party Claim. Notwithstanding anything in this **Section 10.3** to the contrary, neither the indemnifying party nor the indemnified party will, without the written consent of the other party, settle or compromise any Third Party Claim or permit a default or consent to entry of any judgment unless (i) the claimant (or claimants) and such party provide to such other party an unqualified release from all liability in respect of the Third Party Claim, or (ii) if such Third Party Claim is with respect to Taxes such settlement or compromise could not reasonably be expected to have an adverse effect on Purchaser. If the indemnifying party makes any payment on any Third Party Claim, the indemnifying party will be subrogated, to the extent of such payment, to all rights and remedies of the indemnified party to any insurance benefits or other claims of the indemnified party with respect to such Third Party Claim.

(q) After any final decision, judgment, or award will have been rendered by a Governmental Body of competent jurisdiction and the expiration of the time in which to appeal therefrom, a settlement will have been consummated, or the indemnified party and the indemnifying party will have arrived at a mutually binding agreement, in each case with respect to a Third Party Claim hereunder, the indemnified party will forward to the indemnifying party notice of any sums due and owing by the indemnifying party pursuant to this Agreement with respect to such matter and the indemnifying party will pay all of such remaining sums so due and owing to the indemnified party in accordance with **Section 10.5**.

#### 10.4 *Limitations on Indemnification for Breaches of Representations and Warranties.*

(g) An indemnifying party will not have any liability under *Section 10.2(a)(i)* or *Section 10.2(b)(i)* unless the aggregate amount of Losses incurred by the indemnified parties and indemnifiable hereunder based upon, attributable to, or resulting from the failure of any of the representations or warranties to be true and correct exceeds Two Hundred Fifty Thousand Dollars (\$250,000) (the “*Deductible*”) and, in such event, the indemnifying party will be required to pay the entire amount of all such Losses; provided that, the Deductible limitation will not apply to Losses related to (i) the failure to be true and correct of any of the Core Seller Representations and Core Purchaser Representations, or (ii) any indemnification claim arising out of any fraudulent, intentional, or willful breach of any representation of the Selling Parties in this Agreement or any Seller Document.

(h) Neither the Sellers nor Purchaser will be required to indemnify any Person under *Section 10.2(a)(i)* or *Section 10.2(b)(i)* for an aggregate amount of Losses exceeding Six Million Five Hundred Thousand Dollars (\$6,500,000) (the “*Cap*”); provided, however, that: (i) with respect to any indemnification obligations of the Sellers, any amounts paid to Purchaser Indemnified Parties from the Indemnity Escrow Account and the Special Indemnity Escrow Account shall be included in determining whether the Cap is reached to the extent such amounts relate to indemnification claims pursuant to which the Cap otherwise applies; (ii) on the date on which written notice is given to the Escrow Agent of the final judgment or settlement for the last matter set forth on *Schedule 10.2(a)(viii)*, the Cap for all indemnification claims that are subject to the Cap shall be reduced to Five Million Five Hundred Thousand Dollars (\$5,500,000) *plus* any amount exceeding Five Million Five Hundred Thousand Dollars (\$5,500,000) but less than Six Million Five Hundred Thousand Dollars (\$6,500,000) with respect to which a claim for indemnification was made prior to such date, and (iii) there will be no Cap with respect to Losses related to (A) the failure to be true and correct of any of the Core Seller Representations and Core Purchaser Representations or (B) any indemnification claim arising out of any fraudulent, intentional, or willful breach of any representation of the Selling Parties in this Agreement or any Seller Document.

(i) For purposes of determining the failure of any representations or warranties to be true and correct, the breach of any covenants or agreements, and calculating Losses hereunder, any materiality or Material Adverse Effect qualifications in the representations, warranties, covenants, and agreements will be disregarded.

#### 10.5 *Indemnity Escrow and Special Indemnity Escrow.*

(d) On the Closing Date, Purchaser will, on behalf of Sellers, pay to Escrow Agent, in immediately available funds, to the account (the “*Indemnity Escrow Account*”) designated by the Escrow Agent, an amount equal to \$1,100,000.00 (the “*Indemnity Escrow Amount*”), in accordance with the terms of this Agreement and the Escrow Agreement. Subject to the terms and conditions of the Indemnification Agreement, any payment Sellers are obligated to make to any Purchaser Indemnified Parties pursuant to this *Article X* (other than with respect to *Section 10.2(a)(viii)*, which matters are covered by *Section 10.5(b)*) will be paid first, to the extent there are sufficient funds in the Indemnity Escrow Account, by release of funds to the Purchaser Indemnified Parties from the Indemnity Escrow Account by the Escrow Agent within five (5) Business Days after the date written notice of any sums due and owing is given to Sellers (with a copy to the Escrow Agent pursuant to the Escrow Agreement) by the applicable Purchaser Indemnified Party and will accordingly reduce the Indemnity Escrow Amount and, second, to the extent the Indemnity Escrow Amount is insufficient to pay any remaining sums due, then the Sellers will be required to pay all of such additional sums due and owing to the Purchaser Indemnified Parties by wire transfer of immediately available funds within five (5) Business Days after the date of such notice. In the event the Sellers breach their



obligation to pay any amount hereunder, Purchaser may proceed against any securities or other property owned by such Sellers and the Sellers agree to take any and all action, including granting any powers of attorney or other authorizations, to permit such recourse. On the expiration of the General Survival Period, the Escrow Agent will release the Indemnity Escrow Amount (to the extent not utilized to pay Purchaser for any indemnification claim) to Sellers, except that the Escrow Agent will retain an amount (up to the total amount then held by the Escrow Agent) equal to the amount of claims for indemnification under this *Article X* (other than with respect to *Section 10.2(a)(viii)*) asserted prior to such expiration of the General Survival Period but not yet resolved (“*Unresolved Claims*”). The Indemnity Escrow Amount retained for Unresolved Claims will be released by the Escrow Agent (to the extent not utilized to pay Purchaser for any such claims resolved in favor of Purchaser) upon their resolution in accordance with this *Article X* and the Escrow Agreement.

(e) On the Closing Date, Purchaser will, on behalf of Sellers, pay to Escrow Agent, in immediately available funds, to the account (the “*Special Indemnity Escrow Account*”) designated by the Escrow Agent, an amount equal to \$1,000,000.00 (the “*Special Indemnity Escrow Amount*”), in accordance with the terms of this Agreement and the Escrow Agreement. Subject to the terms and conditions of the Indemnification Agreement, any payment Sellers are obligated to make to any Purchaser Indemnified Parties pursuant to *Article X* and with respect to *Section 10.2(a)(viii)* will be paid first, to the extent there are sufficient funds in the Special Indemnity Escrow Account, by release of funds to the Purchaser Indemnified Parties from the Special Indemnity Escrow Account by the Escrow Agent within five (5) Business Days after the date written notice of any sums due and owing is given to Sellers (with a copy to the Escrow Agent pursuant to the Escrow Agreement) by the applicable Purchaser Indemnified Party and will accordingly reduce the Special Indemnity Escrow Amount and, second, to the extent the Special Indemnity Escrow Amount is insufficient to pay any remaining sums due, then the Sellers will be required to pay all of such additional sums due and owing to the Purchaser Indemnified Parties by wire transfer of immediately available funds within five (5) Business Days after the date of such notice. In the event the Sellers breach their obligation to pay any amount hereunder, Purchaser may proceed against any securities or other property owned by such Sellers and the Sellers agree to take any and all action, including granting any powers of attorney or other authorizations, to permit such recourse. On the earlier to occur of (i) December 31, 2014 or (ii) the date on which written notice is given to the Escrow Agent of the final judgment or settlement for the last matter set forth on *Schedule 10.2(a)(viii)*, the Escrow Agent will release the Special Indemnity Escrow Amount (to the extent not utilized to pay Purchaser for any indemnification claim) to Sellers, except that the Escrow Agent will retain an amount (up to the total amount then held by the Escrow Agent) equal to the amount of claims for indemnification with respect to *Section 10.2(a)(viii)* under this *Article X* asserted prior to such release date but not yet resolved (“*Special Indemnity Unresolved Claims*”). The Special Indemnity Escrow Amount retained for Special Indemnity Unresolved Claims will be released by the Escrow Agent (to the extent not utilized to pay Purchaser for any such claims resolved in favor of Purchaser) upon their resolution in accordance with this *Article X* and the Escrow Agreement.

10.6 *Tax Treatment of Indemnity Payments*. The Selling Parties and Purchaser agree to treat any indemnity payment made pursuant to this *Article X* as an adjustment to the Total Consideration for all Tax purposes.

10.7 *No Limitation for Fraud*. Nothing in this *Article X* prevents or limits any Purchaser Indemnified Party from bringing a common law action for fraud against any Selling Party whose fraud has caused any Purchaser Indemnified Party to incur Losses or limits the amounts recoverable by any Purchaser Indemnified Party in such common law action.

## ARTICLE XI

### TAXES

11.1 **Transfer Taxes.** Sellers will (a) be responsible for any and all sales, use, stamp, documentary, filing, recording, transfer, real estate transfer, stock transfer, gross receipts, registration, duty, securities transactions, or similar fees or taxes or governmental charges (together with any interest or penalty in addition to tax or additional amount imposed) as levied by any Taxing Authority in connection with the Transactions (collectively, “**Transfer Taxes**”), regardless of the Person liable for such Transfer Taxes under applicable Law and (b) timely file or cause to be filed all necessary documents (including all Tax Returns) with respect to Transfer Taxes.

11.2 **Prorations.** All real property taxes, personal property taxes, ad valorem obligations, and similar recurring taxes and fees on the Purchased Assets (“**Periodic Taxes**”) for taxable periods beginning before and ending after the Closing Date, will be prorated between Purchaser and Sellers as of the Closing Date. Sellers will be responsible for all such Periodic Taxes on the Purchased Assets accruing during any period up to and including the Closing Date. Purchaser will be responsible for all such Periodic Taxes on the Purchased Assets accruing during any period after the Closing Date. Sellers will timely file all Tax Returns due before the Closing Date with respect to such Periodic Taxes and Purchaser will prepare and timely file all Tax Returns due after the Closing Date with respect to such Taxes. If a Party remits to the appropriate Taxing Authority payment for Taxes that are subject to proration under this **Section 11.2** and such payment includes the other Party’s share of such Taxes, such other Party will promptly reimburse the remitting party for its share of such Taxes.

11.3 **Cooperation on Tax Matters.** The Selling Parties and Purchaser will furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to the Purchased Assets and the Assumed Liabilities as is reasonably necessary for the preparation and filing of any Tax Return, claim for refund, or other filings relating to Tax matters, for the preparation for any Tax audit, for the preparation for any Tax protest, and for the prosecution or defense of any suit or other proceeding relating to Tax matters.

## ARTICLE XII

### GUARANTEE

Purchaser Parent hereby unconditionally and irrevocably guarantees (the “**Guarantee**”) the timely payment and performance of all agreements, covenants, obligations and liabilities of Purchaser under this Agreement (the “**Obligations**”). The Guarantee is a guarantee of payment and performance and not merely of collection. Purchaser Parent unconditionally and irrevocably waives promptness, diligence, failure to enforce the Obligations, or any extension of time with respect to the Obligations, notice of acceptance, and any other notice with respect to the Obligations and the Guarantee and any guarantor or suretyship defenses that might otherwise be available to Purchaser Parent. The obligations of Purchaser Parent under the Guarantee with respect to the Obligations will remain in full force and effect without regard to, and will not be affected or impaired by any of the following relating to Purchaser: (a) a case under Title 11 of the U.S. Code, as now constituted or hereafter amended, or under any other applicable federal or state bankruptcy law or other similar law; (b) the appointment of (or a proceeding to appoint) a trustee or receiver of any property interest; (c) an attachment, execution or other judicial seizure of (or a proceeding to attach, execute or seize) a substantial property interest; (d) an assignment for the benefit of creditors; (e) the taking of, failure to take, or submission to any action indicating (after reasonable investigation) an inability to meet financial obligations as they accrue; (f) a dissolution or liquidation; or (g) any assignment or other transfer of any

interest in Purchaser, in whole or in part. Purchaser Parent acknowledges that the Selling Parties would not execute this Agreement without Purchaser Parent providing the Guarantee and that Purchaser Parent benefits from the Guarantee.

### ARTICLE XIII

#### MISCELLANEOUS

13.1 **Expenses.** Except as otherwise provided in this Agreement, each of the Selling Parties and the Purchaser Parties will bear their own expenses incurred in connection with the negotiation and execution of this Agreement and each other agreement, document, and instrument contemplated by this Agreement and the consummation of the Transactions.

13.2 **Equitable Remedies.** The Selling Parties acknowledge that the breach of this Agreement would cause irreparable damage to Purchaser and that Purchaser will not have an adequate remedy at law. Therefore, the obligations of the Selling Parties under this Agreement will be enforceable by a decree of specific performance, injunctive relief or other equitable remedies issued by any court of competent jurisdiction. Such remedies will, however, be cumulative and not exclusive and will be in addition to any other remedies that any party may have under this Agreement or otherwise.

13.3 **Submission to Jurisdiction; Consent to Service of Process.**

(q) The Parties hereby irrevocably submit to the exclusive jurisdiction of any federal or state court located within King County, Washington over any dispute arising out of or relating to this Agreement or any of the Transactions and all claims in respect of such dispute or any suit, action, or proceeding related thereto may be heard and determined in such courts. The Parties hereby irrevocably waive, to the fullest extent permitted by applicable Law, any objection that they may now or hereafter have to the laying of venue of any such dispute brought in such court or any defense of inconvenient forum for the maintenance of such dispute. A judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law.

(r) Each of the Parties hereby consents to process being served by any Party to this Agreement in any suit, action, or proceeding by the delivery of a copy thereof in accordance with the provisions of **Section 13.6**.

13.4 **Entire Agreement; Amendments; Waivers.** This Agreement, the Seller Documents, and the Purchaser Documents (including the schedules and exhibits hereto and thereto) represent the entire understanding and agreement between the Parties with respect to the subject matter hereof. This Agreement can be amended, supplemented, or changed and any provision hereof can be waived only by written instrument making specific reference to this Agreement signed by the Party against whom enforcement of any such amendment, supplement, modification, or waiver is sought. No action taken pursuant to this Agreement, including any investigation by or on behalf of any Party, will be deemed to constitute a waiver by the Party taking such action of compliance with any representation, warranty, covenant, or agreement contained herein. The waiver by any Party of a breach of any provision of this Agreement will not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any Party to exercise, and no delay in exercising, any right, power, or remedy hereunder will operate as a waiver thereof, nor will any single or partial exercise of such right, power, or remedy by such Party preclude any other or further exercise thereof or the exercise of any other right, power, or remedy. All remedies hereunder are cumulative and are not exclusive of any other remedies provided by Law.

13.5 **Governing Law.** This Agreement will be governed by and construed in accordance with the Laws of the state of Washington applicable to contracts made and performed in the state of Washington without regard to conflicts of law provisions that would require the application of any other Law.

13.6 **Notices.** All notices and other communications under this Agreement will be in writing and will be deemed given (a) when delivered personally by hand (with written confirmation of receipt), (b) when sent by fax (with written confirmation of transmission), or (c) one (1) Business Day following the day sent by overnight courier (with written confirmation of receipt), in each case at the following addresses and fax numbers (or to such other address or fax number as a Party may have specified by notice given to the other Parties pursuant to this provision):

If to Sellers, to:

MDT Personnel, LLC  
105 Montgomery Avenue, Suite 1053  
Lansdale, PA 19446  
Fax: 267.421.5281  
Attention: Michael D. Traina

With a copy to:

Fox Rothschild LLP  
2700 Kelly Road, Suite 300  
Warrington, PA 18976  
Fax: 215.345.7507  
Attention: Adam G. Silverstein, Esq.

If to Purchaser Parent or Purchaser, to:

TrueBlue, Inc.  
1015 A Street  
Tacoma, WA 98401  
Fax:  
Attention: General Counsel

With a copy to:

K&L Gates LLP  
925 Fourth Avenue, Suite 2900  
Seattle, WA 98104  
Fax: 206.623.7022  
Attention: Kristy T. Harlan

13.7 **Severability.** If any term or other provision of this Agreement is invalid, illegal, or incapable of being enforced by any Law or public policy, all other terms or provisions of this Agreement will nevertheless remain in full force and effect so long as the economic or legal substance of the Transactions is not affected

in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the Parties will negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the Transactions are consummated as originally contemplated to the greatest extent possible.

13.8 ***Binding Effect; Assignment.*** This Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Nothing in this Agreement will create or be deemed to create any third-party beneficiary rights in any person or entity not a Party to this Agreement except as provided in **Section 10.2** and below in this **Section 13.8**. No assignment of this Agreement or of any rights or obligations hereunder may be made by any Party (by operation of law or otherwise) without the prior written consent of the other Parties and any attempted assignment without the required consents will be void; provided that Purchaser may assign this Agreement and any or all rights or obligations hereunder (including Purchaser's rights to seek indemnification hereunder) to any Affiliate of Purchaser, any Person from which it has borrowed money, or any Person to which Purchaser or any of its Affiliates proposes to sell (including by sale of equity interests) all or substantially all of the assets relating to the Business. Upon any such permitted assignment, the references in this Agreement to Purchaser will also apply to any such assignee unless the context otherwise requires.

13.9 ***Non-Recourse.*** No past, present, or future director, officer, employee, incorporator, member, partner, equity holder, Affiliate, agent, attorney, or representative of the Purchasing Parties or their Affiliates will have any liability for any obligations or liabilities of the Purchasing Parties under this Agreement or the Purchaser Documents of or for any claim based on, in respect of, or by reason of the Transactions, unless such claim is based upon, attributable to, or resulting from, fraud by such Person.

13.10 ***General Interpretive Principles.*** The name assigned to this Agreement and the Article, Section, and subsection captions used herein are for convenience of reference only and will not be construed to affect the meaning, construction, or effect hereof. The terms defined in the singular will have a comparable meaning when used in the plural and vice versa. Unless otherwise specified, the terms "hereof," "herein," and similar terms refer to this Agreement as a whole (including the schedules and exhibits hereto). Any reference to any Article, Section, or paragraph will be deemed to refer to an Article, Section, or paragraph of this Agreement, unless the context clearly indicates otherwise. Pronouns in masculine, feminine, and neuter genders will be construed to include any other gender, and words in the singular form will be construed to include the plural and vice versa, unless the context otherwise requires. For purposes of this Agreement, the words, "include," "includes," and "including," when used herein, will be deemed in each case to be followed by the words "without limitation." Unless stated otherwise, the terms "dollars" and "\$" will mean United States dollars.

13.11 ***Construction.***

(c) The Parties have participated jointly in the negotiation and drafting of this Agreement. If an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the Parties and no presumption or burden of proof will arise favoring or disfavoring any Party because of the authorship of any provision of this Agreement.

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

will not detract from or mitigate the fact that the Party is in breach of the first representation, warranty, or covenant.

(e) Any reference to any federal, state, local, or foreign statute or Law will be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise.

13.12 ***Incorporation of Schedules.*** The schedules, and other attachments identified in this Agreement, are incorporated herein by reference and made a part hereof.

13.13 ***Counterparts.*** This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement.

***[Remainder of page intentionally left blank.]***

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their respective duly authorized officers, as of the date first written above.

**PURCHASER:**

**LABOR READY HOLDINGS, INC.**

By: \_\_\_\_\_

Name:

Title:

SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT

---

**SELLERS:**

**MDT PERSONNEL, LLC**

By: \_\_\_\_\_

Name:

Title:

**MDT PERSONNEL CONTRACTS, LLC**

By: \_\_\_\_\_

Name:

Title:

**MDT STAFFING, LLC**

By: \_\_\_\_\_

Name:

Title:

**DISASTER RECOVERY SUPPORT, LLC**

By: \_\_\_\_\_

Name:

Title:

**MEMBER** (Solely for the purposes of Article V)

\_\_\_\_\_  
**Michael D. Traina, individually**



**TRUEBLUE, INC.** (Solely for the purposes of Articles VI and XII)

By: \_\_\_\_\_

Name:

Title:

SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT

**TERM LOAN AGREEMENT**

**by and among**

**TRUEBLUE, INC.**

**as Borrower,**

**THE LENDERS THAT ARE SIGNATORIES HERETO**

**as the Lenders,**

**and**

**SYNOVUS BANK**

**as the Administrative Agent**

**Dated as of February 4, 2013**

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## TERM LOAN AGREEMENT

**THIS TERM LOAN AGREEMENT** (this "Agreement"), is entered into as of February 4, 2013, by and among the lenders identified on the signature pages hereof (such lenders, together with their respective successors and permitted assigns, are referred to hereinafter each individually as a "Lender" and collectively as the "Lenders"), **SYNOVUS BANK**, as the administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, "Agent"), and **TRUEBLUE, INC.**, a Washington corporation ("Borrower").

The parties agree as follows:

### 1. **DEFINITIONS** **AND** **CONSTRUCTION.**

**1.1 Definitions.** Capitalized terms used in this Agreement shall have the meanings specified therefor on Schedule 1.1.

**1.2 Accounting Terms.** All accounting terms not specifically defined herein shall be construed in accordance with GAAP; provided, however, that if Borrower notifies Agent that Borrower requests an amendment to any provision hereof to eliminate the effect of any Accounting Change occurring after the Closing Date or in the application thereof on the operation of such provision (or if Agent notifies Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such Accounting Change or in the application thereof, then Agent and Borrower agree that they will negotiate in good faith amendments to the provisions of this Agreement that are directly affected by such Accounting Change with the intent of having the respective positions of the Lenders and Borrower after such Accounting Change conform as nearly as possible to their respective positions as of the date of this Agreement and, until any such amendments have been agreed upon, the provisions in this Agreement shall be calculated as if no such Accounting Change had occurred. When used herein, the term "financial statements" shall include the notes and schedules thereto. Notwithstanding the foregoing, for purposes of determining compliance with any covenant contained herein, Indebtedness of the Borrower and its Subsidiaries will be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 on financial liabilities shall be disregarded.

**1.3 Code.** Any terms used in this Agreement that are defined in the Code shall be construed and defined as set forth in the Code unless otherwise defined herein; provided, however, that to the extent that the Code is used to define any term herein and such term is defined differently in different Articles of the Code, the definition of such term contained in Article 9 of the Code shall govern.

**1.4 Construction.** Unless the context of this Agreement or any other Loan Document clearly requires otherwise, references to the plural include the singular, references to the singular include the plural, the terms "includes" and "including" are not limiting, and the term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or." The words "hereof," "herein," "hereby," "hereunder," and similar terms in this Agreement or any other

Loan Document refer to this Agreement or such other Loan Document, as the case may be, as a whole and not to any particular provision of this Agreement or such other Loan Document, as the case may be. Section, subsection, clause, schedule, and exhibit references herein are to this Agreement unless otherwise specified. Any reference in this Agreement or in any other Loan Document to any agreement, instrument, or document shall include all alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements, thereto and thereof, as applicable (subject to any restrictions on such alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements set forth herein). The words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts, and contract rights. Any reference herein or in any other Loan Document to the satisfaction or repayment in full of the Obligations shall mean the repayment in full in cash of all Obligations other than unasserted contingent indemnification Obligations. Any reference herein to any Person shall be construed to include such Person’s successors and assigns. Any requirement of a writing contained herein or in any other Loan Document shall be satisfied by the transmission of a Record.

**1.5 Schedules and Exhibits.** All of the schedules and exhibits attached to this Agreement shall be deemed incorporated herein by reference.

## **2.LOAN AND TERMS OF PAYMENT.**

**2.1 Term Loan Commitments** . Subject to the terms and conditions set forth herein, each Lender severally agrees to make loans (each, a “Term Loan”) to the Borrower on the Closing Date in a principal amount equal to the Term Loan Commitment of such Lender set forth on Schedule C-1 as of the Closing Date; provided, that if for any reason the full amount of such Lender’s Term Loan Commitment is not fully drawn on the Closing Date, the undrawn portion thereof at such time shall automatically be cancelled. The Term Loans shall be LIBOR Rate Loans, except as is otherwise set forth in this Agreement. The execution and delivery of this Agreement by the Borrower and the satisfaction of all conditions precedent pursuant to Section 3.1 shall be deemed to constitute the Borrower’s request to borrow the Term Loans on the Closing Date, provided, that the Agent may, in its sole discretion, condition any request by Borrower to borrow the Term Loans upon the Borrower giving the Agent written notice (or telephonic notice promptly confirmed in writing) of each Term Loan Borrowing substantially in the form of Exhibit 2.5 (a “Notice of Term Loan Borrowing”) prior to 11:00 a.m. on the requested date of the Term Loan Borrowing. The Notice of Term Loan Borrowing shall be irrevocable and shall specify: (i) the aggregate principal amount of such Borrowing and (ii) the date of such Borrowing (which shall be a Business Day).

**2.2 Interest** . Except as is otherwise set forth in this Agreement, each Borrowing shall consist of LIBOR Rate Loans.

**2.3 Termination of Commitments** . The Term Loan Commitments shall terminate on the Closing Date upon the making of the Term Loans pursuant to Section 2.1.

**2.4 Repayment of Loans** . The Borrower unconditionally promises to pay to the Agent for the account of each Lender the then unpaid principal amount of the Term Loan of such Lender in monthly installments in the amount of [\$188,888.89] on the first Business Day of each month, commencing March 1, 2013 through the Maturity Date, and through any applicable Extended Maturity Date, and provided, that, to the extent not previously paid, the aggregate unpaid principal balance of the Term Loans shall be due and payable on the Maturity Date, or, if extended pursuant to the terms of Section 3.2 hereof, on the applicable Extended Maturity Date.

**2.5 Payment of Interest on Loans** .

(a) The Borrower shall pay interest on each Base Rate Loan at the Base Rate in effect from time to time and on each LIBOR Rate Loan at the LIBOR Index Rate in effect from time to time for the applicable Interest Period in effect for such Term Loan, *plus*, in each case, the Applicable Margin in effect from time to time.

(b) [Intentionally Omitted]

(c) Notwithstanding clause (a) above, while an Event of Default exists, at the option of the Required Lenders, and after acceleration, the Borrower shall pay interest ("Default Interest") with respect to (i) all LIBOR Rate Loans at the LIBOR Index Rate *plus* the Applicable Margin, *plus* an additional 2% per annum and (ii) all Base Rate Loans and all other Obligations hereunder (other than LIBOR Rate Loans), at the Base Rate, *plus* the Applicable Margin, *plus* an additional 2% per annum.

(d) Interest on the principal amount of all Term Loans shall accrue from and including the date such Term Loans are made to but excluding the date of any repayment thereof. Interest on all outstanding Base Rate Loans shall be payable monthly in arrears on the first Business Day of each month and on the Maturity Date, and through any applicable Extended Maturity Date, as the case may be. Interest on all outstanding LIBOR Rate Loans shall be payable monthly in arrears on the first Business Day of each month and on the Maturity Date, and through any applicable Extended Maturity Date, as the case may be. Interest on any Term Loan which is converted into a Term Loan of another Type or which is repaid or prepaid shall be payable on the date of such conversion or on the date of any such repayment or prepayment (on the amount repaid or prepaid) thereof. All Default Interest shall be payable on demand.

The Agent shall determine each interest rate applicable to the Term Loans hereunder and shall promptly notify the Borrower and the Lenders of such rate in writing (or by telephone, promptly confirmed in writing). Any such determination shall be conclusive and binding for all purposes, absent manifest error.

**2.6 Inability to Determine Interest Rates** . If prior to the commencement of any Interest Period for any LIBOR Index Rate Borrowing,

(i) the Agent shall have determined (which determination shall be conclusive and binding upon the Borrower) that, by reason of circumstances affecting the relevant



interbank market, adequate means do not exist for ascertaining LIBOR Index Rate for such Interest Period, or

(ii) the Required Lenders shall have determined, reasonably and in good faith in accordance with customary business practices for comparable transactions, that either the LIBOR Index Rate does not adequately and fairly reflect the cost to such Lenders (or Lender, as the case may be) of making, funding or maintaining their (or its, as the case may be) LIBOR Rate Loans for such Interest Period, and the Agent shall have received notice thereof from the Required Lenders;

the Agent shall give written notice (or telephonic notice, promptly confirmed in writing) to the Borrower and to the Lenders as soon as practicable thereafter. Until the Agent shall notify the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (i) the obligations of the Lenders to make LIBOR Rate Loans or to continue outstanding Term Loans as LIBOR Rate Loans shall be suspended and (ii) all such affected Term Loans shall be converted into Base Rate Loans on the last day of the then current Interest Period applicable thereto unless the Borrower prepays such Term Loans in accordance with this Agreement.

## **2.7 Evidence of Indebtedness**

(a) Each Lender shall maintain in accordance with its usual practice appropriate records evidencing the Indebtedness of the Borrower to such Lender resulting from each Term Loan made by such Lender, including the amounts of principal and interest payable thereon and paid to such Lender from time to time under this Agreement. The Agent shall maintain appropriate records in which shall be recorded (i) the amount of each Term Loan made hereunder by each Lender, (ii) the date and amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder in respect of such Term Loans and (iii) to the extent known by the Agent, both the date and amount of any sum received by any Lender from the Borrower in respect of the Term Loans.

(b) The Term Loans made by each Lender shall be evidenced by Term Loan Notes (one for each Lender) in principal face amount equal to each such Lender's Term Loan(s). The Term Loan Notes evidencing Term Loans made on the Closing Date shall be dated as of the Closing Date and shall bear interest at the rates per annum and be payable as to principal and interest in accordance with the terms of this Agreement. Each outstanding Term Loan shall be due and payable as set forth in Sections 2.4 and 2.5 hereof unless the maturity of the Term Loans is accelerated as provided herein.

**2.8 Illegality** . If any Change in Law shall make it unlawful or impossible for any Lender to make, maintain or fund any LIBOR Rate Loan and such Lender shall so notify the Agent, the Agent shall promptly give notice thereof to the Borrower and the other Lenders, whereupon until such Lender notifies the Agent and the Borrower that the circumstances giving rise to such suspension no longer exist, the obligation of such Lender to make LIBOR Rate Loans, or to continue outstanding Term Loans as LIBOR Rate Loans, shall be suspended.

**2.9 Computation.** All interest and fees chargeable under the Loan Documents shall be computed on the basis of a 360-day year, in each case, for the actual number of days elapsed in the period during which the interest or fees accrue. In the event the Base Rate is changed from time to time hereafter, the rates of interest hereunder based upon the Base Rate automatically and immediately shall be increased or decreased by an amount equal to such change in the Base Rate.

**2.10 Intent to Limit Charges to Maximum Lawful Rate.** In no event shall the interest rate or rates payable under this Agreement, plus any other amounts paid in connection herewith, exceed the highest rate permissible under any law that a court of competent jurisdiction shall, in a final determination, deem applicable. Borrower and the Lender Group, in executing and delivering this Agreement, intend legally to agree upon the rate or rates of interest and manner of payment stated within it; provided, however, that, anything contained herein to the contrary notwithstanding, if said rate or rates of interest or manner of payment exceeds the maximum allowable under applicable law, then, *ipso facto*, as of the date of this Agreement, Borrower is and shall be liable only for the payment of such maximum as allowed by law, and payment received from Borrower in excess of such legal maximum, whenever received, shall be applied to reduce the principal balance of the Obligations to the extent of such excess.

**2.11 Crediting Payments.** The receipt of any payment item by Agent shall not be considered a payment on account unless such payment item is a wire transfer of immediately available federal funds made to Agent's Account or unless and until such payment item is honored when presented for payment. Should any payment item not be honored when presented for payment, then Borrower shall be deemed not to have made such payment and interest shall be calculated accordingly. Anything to the contrary contained herein notwithstanding, any payment item shall be deemed received by Agent only if it is received into Agent's Account on a Business Day on or before 3:00 p.m. (Georgia time). If any payment item is received into Agent's Account on a non-Business Day or after 3:00 p.m. (Georgia time) on a Business Day, it shall be deemed to have been received by Agent as of the opening of business on the immediately following Business Day.

**2.12 Maintenance of Loan Account; Statements of Obligations.** Agent shall maintain an account on its books in the name of Borrower (the "Loan Account") on which Borrower will be charged with all payment Obligations hereunder or under the other Loan Documents, including, accrued interest, fees and expenses, and Lender Group Expenses. In accordance with Section 2.7, the Loan Account will be credited with all payments received by Agent from Borrower or for Borrower's account. Agent shall render statements regarding the Loan Account to Borrower, including principal, interest, fees, and including an itemization of all charges and expenses constituting Lender Group Expenses owing, and such statements, absent manifest error, shall be conclusively presumed to be correct and accurate and constitute an account stated between Borrower and the Lender Group unless, (x) with respect to any error or errors in an amount less than \$10,000, within 30 days after receipt thereof by Borrower, Borrower shall deliver to Agent written objection thereto describing the error or errors contained in any such statements, and (y) with respect to all other error or errors, within 60 days after receipt thereof by Borrower, Borrower shall deliver to Agent written obligation thereto describing the error or errors contained in such statements.

**2.13 [RESERVED]**

2.14 [RESERVED]

3. CONDITIONS; TERM OF AGREEMENT.

**3.1 Conditions Precedent to the Initial Extension of Credit.** The obligation of each Lender to make its extension of credit provided for hereunder, is subject to the fulfillment, to the satisfaction of Agent and each Lender, of each of the conditions precedent set forth on Schedule 3.1 (the making of such extension of credit by a Lender being conclusively deemed to be its satisfaction or waiver of the conditions precedent). If each of the conditions precedent set forth on Schedule 3.1 is not satisfied by February 4, 2013, the Loan Documents as well as the obligations of each Lender to provide any financial accommodations under the Loan Documents shall immediately terminate.

**3.2 Maturity.** This Agreement shall continue in full force and effect for a term ending on February 4, 2018 (the “Maturity Date”); provided, however, that if the term hereof is extended pursuant to the terms of this Section 3.2, the term of this Agreement shall continue to the applicable Extended Maturity Date (as defined below), and all references to “Maturity Date” set forth herein or in any other Loan Document shall be deemed to refer to the Extended Maturity Date, as applicable. Notwithstanding anything to the contrary contained herein, the Borrower may, by written notice to the Agent (who shall promptly notify the Lenders), extend the Maturity Date, or the Extended Maturity Date, as applicable, for one year from the Maturity Date, or the Extended Maturity Date, then in effect hereunder (after giving effect to any such extension, each, an “Extended Maturity Date”); provided, that (i) the Borrower may make no more than five (5) such requests during the term of this Agreement, (ii) each such request must be delivered within the 60 day period prior to the Maturity Date or the Extended Maturity Date in effect, as the case may be, (iii) no Event of Default has occurred and is continuing, and (iv) in no event shall the Maturity Date or any Extended Maturity Date be extended beyond February 4, 2023. The foregoing notwithstanding, the Lender Group, upon the election of the Required Lenders, shall have the right to accelerate payment of the Obligations under this Agreement immediately and without notice upon the occurrence and during the continuation of an Event of Default.

**3.3 Effect of Maturity.** On the Maturity Date, or any applicable Extended Maturity Date, all Obligations immediately shall become due and payable without notice or demand. No termination of the obligations of the Lender Group shall relieve or discharge any Loan Party of its duties, Obligations, or covenants hereunder or under any other Loan Document.

4. REPRESENTATIONS AND WARRANTIES.

In order to induce the Lender Group to enter into this Agreement, Borrower makes the following representations and warranties to the Lender Group which shall be true, correct, and complete, in all material respects, (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text

thereof), as of the Closing Date, and such representations and warranties shall survive the execution and delivery of this Agreement:

#### **4.1 Due Organization and Qualification; Subsidiaries.**

(a) Each Loan Party (i) is duly organized and existing and in good standing (or the local equivalent) under the laws of the jurisdiction of its organization, (ii) qualified to do business in any state where the failure to be so qualified reasonably could be expected to result in a Material Adverse Change, and (iii) has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as proposed to be conducted, to enter into the Loan Documents and the MDT Acquisition Documents to which it is a party and to carry out the transactions contemplated thereby.

(b) Set forth on Schedule 4.1(b) is a complete and accurate description of the authorized capital Stock of Borrower, by class, and a description of the number of shares of each such class that are issued and outstanding. Other than as described on Schedule 4.1(b), as of the Closing Date, there are no subscriptions, options, warrants, or calls relating to any shares of Borrower's capital Stock, including any right of conversion or exchange under any outstanding security or other instrument. Borrower is not subject to any obligation (contingent or otherwise) to repurchase or otherwise acquire or retire any shares of its capital Stock or any security convertible into or exchangeable for any of its capital Stock.

(c) Set forth on Schedule 4.1(c) is a complete and accurate list of the Loan Parties' direct and indirect Subsidiaries, showing: (i) the number of shares of each class of common and preferred Stock authorized for each of such Subsidiaries, and (ii) the number and the percentage of the outstanding shares of each such class owned directly or indirectly by Borrower. All of the outstanding capital Stock of each such Subsidiary has been validly issued and is fully paid and non-assessable.

(d) Except as set forth on Schedule 4.1(c), there are no subscriptions, options, warrants, or calls relating to any shares of Borrower's Subsidiaries' capital Stock, including any right of conversion or exchange under any outstanding security or other instrument. Neither Borrower nor any of its Subsidiaries is subject to any obligation (contingent or otherwise) to repurchase or otherwise acquire or retire any shares of Borrower's Subsidiaries' capital Stock or any security convertible into or exchangeable for any such capital Stock.

#### **4.2 Due Authorization; No Conflict.**

(a) As to each Loan Party, the execution, delivery, and performance by such Loan Party of the Loan Documents and the MDT Acquisition Documents to which it is a party have been duly authorized by all necessary action on the part of such Loan Party.

(b) As to each Loan Party, the execution, delivery, and performance by such Loan Party of the Loan Documents and the MDT Acquisition Documents to which it is a party do not and will not (i) (A) except for Excluded Liabilities, violate any material provision of federal,

state, or local law or regulation applicable to any Loan Party or its Subsidiaries, or any order, judgment, or decree of any court or other Governmental Authority binding on any Loan Party or its Subsidiaries (other than an Excluded Subsidiary) or (B) the Governing Documents of any Loan Party or its Subsidiaries, (ii) conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any Material Contract of any Loan Party or its Subsidiaries except to the extent that any such conflict, breach or default could not individually or in the aggregate reasonably be expected to have a Material Adverse Change, (iii) result in or require the creation or imposition of any Lien of any nature whatsoever upon any assets of any Loan Party, other than Permitted Liens, or (iv) require any approval of any Loan Party's interest holders or any approval or consent of any Person under any Material Contract (excluding any MDT Acquired Assets) of any Loan Party, other than consents or approvals that have been obtained and that are still in force and effect and except, in the case of Material Contracts (excluding any MDT Acquired Assets), for consents or approvals, the failure to obtain could not individually or in the aggregate reasonably be expected to cause a Material Adverse Change.

**4.3 Governmental Consents.** The execution, delivery and performance by each Loan Party of the Loan Documents to which such Loan Party is a party and the consummation of the credit facility as contemplated by the Loan Documents do not and will not require any registration with, consent, or approval of, or notice to, or other action with or by, any Governmental Authority, other than registrations, consents, approvals, notices, or other actions that have been obtained and that are still in force and effect.

**4.4 Binding Obligations.** Each Loan Document has been duly executed and delivered by each Loan Party that is a party thereto and is the legally valid and binding obligation of such Loan Party, enforceable against such Loan Party in accordance with its respective terms, except as enforcement may be limited by equitable principles or by bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or limiting creditors' rights generally.

**4.5 Title to Assets; No Encumbrances.** Except for the MDT Acquired Assets, each of the Loan Parties and its Subsidiaries has (i) good, sufficient and legal title to (in the case of fee interests in Real Property), (ii) valid leasehold interests in (in the case of leasehold interests in real or personal property), and (iii) good and marketable title to (in the case of all other personal property), all of their respective assets reflected in their most recent financial statements delivered pursuant to Section 5.1, in each case except for assets disposed of since the date of such financial statements to the extent permitted hereby. All of such assets (excluding, for the avoidance of doubt, the MDT Acquired Assets) of the Loan Parties and their Subsidiaries (other than Excluded Subsidiaries) are free and clear of Liens except for Permitted Liens.

**4.6 Litigation.**

(a) Except for the Excluded Liabilities and as set forth on Schedule 4.6(a), there are no actions, suits, or proceedings pending or, to the best knowledge of Borrower, threatened in writing against a Loan Party or any of its Subsidiaries that either individually or in the aggregate could reasonably be expected to result in a Material Adverse Change.

(b) Excluding actions relating to garnishment, unemployment claims, claims in “small claims” court, workers compensation claims and claims for which the expected recovery after deducting any insurance coverage is less than \$1,000,000, but specifically including any claims that Borrower would be required to or would likely elect to disclose in any filing with the SEC, Schedule 4.6(b) sets forth a complete and accurate description, with respect to each of the actions, suits, or proceedings that, as of the Closing Date, is pending or, to the best knowledge of Borrower, threatened in writing against a Loan Party or any of its Subsidiaries, of (i) the parties to such actions, suits, or proceedings, (ii) the nature of the dispute that is the subject of such actions, suits, or proceedings, (iii) the status, as of the Closing Date, with respect to such actions, suits, or proceedings and (iv) whether any liability of the Loan Parties’ and their Subsidiaries in connection with such actions, suits, or proceedings is covered by insurance.

**4.7 Compliance with Laws.** No Loan Party nor any of its Subsidiaries (a) is in violation of any applicable laws, rules, regulations, executive orders, or codes (including Environmental Laws) that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change other than those that relate to the MDT Acquired Assets and the MDT Acquisition, or (b) is subject to or in default with respect to any final judgments, writs, injunctions, decrees, rules or regulations of any court or any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Change.

**4.8 No Material Adverse Change.** All historical financial statements relating to the Loan Parties and their Subsidiaries that have been delivered by Borrower to Agent have been prepared in accordance with GAAP (except, in the case of unaudited financial statements, for the lack of footnotes and being subject to year-end audit adjustments) and present fairly in all material respects, the Loan Parties’ and their Subsidiaries’ consolidated financial condition as of the date thereof and results of operations for the period then ended. Since December 31, 2011, no event, circumstance, or change has occurred that has or could reasonably be expected to result in a Material Adverse Change with respect to the Loan Parties and their Subsidiaries, other than those disclosed in filings made with the SEC prior to the Closing Date.

**4.9 Fraudulent Transfer.**

(a) Each Loan Party is, and after giving effect to the funding of the Term Loan and the consummation of the MDT Acquisition, will be, Solvent.

(b) No transfer of property is being made by any Loan Party and no obligation is being incurred by any Loan Party in connection with the transactions contemplated by this Agreement or the other Loan Documents with the intent to hinder, delay, or defraud either present or future creditors of such Loan Party or the Seller Parties.

**4.10 Complete Disclosure.** Other than information provided, directly or indirectly, by MDT to Borrower in connection with the MDT Acquisition, all factual information (taken as a whole) furnished by or on behalf of a Loan Party or its Subsidiaries in writing to Agent or any Lender (including all information contained in the Schedules hereto or in the other Loan Documents)

for purposes of or in connection with this Agreement, the other Loan Documents, or any transaction contemplated herein or therein is true and accurate, in all material respects, on the date as of which such information was dated or certified and not incomplete by omitting to state any fact necessary to make such information (taken as a whole) not misleading in any material respect at such time in light of the circumstances under which such information was provided.

**4.11 Patriot Act.** To the extent applicable, each Loan Party is in compliance, in all material respects, with the (a) Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto, and (b) Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act of 2001) (the "Patriot Act"). No part of the proceeds of the loans made hereunder will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

**4.12 OFAC.** No Loan Party or any of its Subsidiaries is in violation of any of the country or list based economic and trade sanctions administered and enforced by OFAC. No Loan Party or any of its Subsidiaries (a) is a Sanctioned Person or a Sanctioned Entity, (b) has more than 10% of its assets located in Sanctioned Entities, or (c) derives more than 10% of its revenues from investments in, or transactions with Sanctioned Persons or Sanctioned Entities. The proceeds of any Term Loan will not be used to fund any operations in, finance any investments or activities in, or make any payments to, a Sanctioned Person or a Sanctioned Entity.

## 5. AFFIRMATIVE COVENANTS.

Borrower covenants and agrees that, until payment in full of the Obligations, the Loan Parties shall and shall cause each of their Subsidiaries to comply with each of the following:

**5.1 Financial Statements, Reports, Certificates.** Deliver to Agent, with copies to each Lender, each of the financial statements, reports, and other items set forth on Schedule 5.1 at the times specified therein. In addition, Borrower agrees that no Loan Party and no Subsidiary of a Loan Party (other than Excluded Subsidiaries) will have a fiscal year different from that of Borrower. In addition, Borrower agrees to maintain a system of accounting that enables Borrower to produce financial statements in accordance with GAAP. Documents required to be delivered pursuant to items (a), (b), (c), (d), (f), (g) and (h) of Schedule 5.1 (to the extent such documents are included in materials otherwise filed with the Securities and Exchange Commission) may be delivered electronically, and shall be deemed to have been delivered on the date on which such documents are posted on Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Agent have access (whether a commercial, third-party website or whether sponsored by Agent).

**5.2 Events Relating to Other Credit Facility.** Deliver to Agent, with copies to each Lender, complete, executed copies of any and all amendments, modifications, replacements,

substitutions or refinancings of the Other Credit Facility, notices of default under and/or notices of acceleration of the Indebtedness owed pursuant to the Other Credit Facility, and any waivers or consents granted in relation to the Other Credit Facility, in each case, within ten (10) days of the date on which such amendment or modification is executed, such notice of default or acceleration is received by Borrower, or such waiver is granted, as applicable.

**5.3 Inspection.** Permit Agent and each of its duly authorized representatives or agents to discuss its affairs, finances, and accounts with, and to be advised as to the same by its senior officers designated by Borrower at such reasonable times and intervals as Agent and Borrower may agree. Borrower will provide any audit or inspection reports received by Borrower under the Other Credit Agreement to Agent promptly upon receipt.

**5.4 Existence.** Except as otherwise permitted under Section 6.3, at all times maintain and preserve in full force and effect its existence (including being in good standing or the local equivalent in its jurisdiction of organization) and all rights and franchises, licenses, and permits material to its business.

**5.5 Taxes.** Cause all assessments and taxes imposed, levied, or assessed against any Loan Party, or any of their respective assets or in respect of any of its income, businesses, or franchises to be paid in full, before delinquency or before the expiration of any extension period, except to the extent that the validity of such assessment or tax shall be the subject of a Permitted Protest or would not result in a Material Adverse Change. Borrower will and will cause each of its Subsidiaries to make timely payment or deposit of all tax payments and withholding taxes required of it and them by applicable laws, including those laws concerning F.I.C.A., F.U.T.A., state disability, and local, state, and federal income taxes, except to the extent that the validity of such assessment or tax shall be the subject of a Permitted Protest or would not result in a Material Adverse Change.

**5.6 Formation of Subsidiaries.** At the time that any Loan Party forms any direct or indirect Subsidiary or acquires any direct or indirect Subsidiary after the Closing Date, such Loan Party shall (a) within 10 days of such formation or acquisition cause any such new Subsidiary to provide to Agent a joinder to the Guaranty; provided that the Guaranty shall not be required to be provided to Agent with respect to any Subsidiary of Borrower that is a CFC if providing such documents is reasonably likely to result in adverse tax consequences or the costs to the Loan Parties of providing such Guaranty are unreasonably excessive (as reasonably determined by Agent in consultation with Borrower) in relation to the benefits of Agent and the Lenders of the guarantee afforded thereby, and (b) within 10 days of such formation or acquisition (or such later date as permitted by Agent in its sole discretion) provide to Agent all other documentation, including one or more opinions of counsel reasonably satisfactory to Agent, which in its opinion is appropriate with respect to the execution and delivery of the applicable documentation referred to above (including policies of title insurance or other documentation with respect to all Real Property owned in fee and subject to a mortgage). Any document, agreement, or instrument executed or issued pursuant to this Section 5.6 shall be a Loan Document.

## 6.NEGATIVE COVENANTS.



Borrower covenants and agrees that, until payment in full of the Obligations, the Loan Parties will not and will not permit any of their Subsidiaries to do any of the following:

**6.1 Indebtedness.** Create, incur, assume, suffer to exist, guarantee, or otherwise become or remain, directly or indirectly, liable with respect to any Indebtedness, except for Permitted Indebtedness.

**6.2 Liens.** Create, incur, assume, or suffer to exist, directly or indirectly, any Lien on or with respect to any of its assets, of any kind, whether now owned or hereafter acquired, or any income or profits therefrom, except for Permitted Liens.

**6.3 Restrictions on Fundamental Changes.**

(c) Other than in order to consummate a Permitted Acquisition, enter into any merger, consolidation or reorganization, except for (i) any merger between Loan Parties, provided that Borrower must be the surviving entity of any such merger to which it is a party, (ii) any merger between Loan Parties and Subsidiaries of Borrower that are not Loan Parties so long as such Loan Party is the surviving entity of any such merger, (iii) any merger between Subsidiaries of Borrower that are not Loan Parties, and (iv) in connection with any Permitted Investment;

(d) Liquidate, wind up, or dissolve itself (or suffer any liquidation or dissolution), except for (i) the liquidation or dissolution of Subsidiaries (other than Excluded Subsidiaries), (ii) the liquidation or dissolution of any Loan Party (other than Borrower) or any of its wholly-owned Subsidiaries so long as all of the assets (including any interest in any Stock) of such liquidating or dissolving Loan Party or Subsidiary are transferred to a Loan Party that is not liquidating or dissolving, or (iii) the liquidation or dissolution of a Subsidiary of Borrower that is not a Loan Party so long as all of the assets of such liquidating or dissolving Subsidiary are transferred to Borrower or a Subsidiary of Borrower that is not liquidating or dissolving, or

(e) With respect to a Loan Party and its Subsidiaries (other than Excluded Subsidiaries), suspend or go out of a substantial portion of its or their business, except as permitted pursuant to clauses (a) or (b) above or in connection with the transactions permitted pursuant to Section 6.4.

**6.4 Disposal of Assets.** Other than Permitted Dispositions, Permitted Investments, or transactions expressly permitted by Sections 6.3, convey, sell, lease, license, assign, transfer, or otherwise dispose of (or enter into an agreement to convey, sell, lease, license, assign, transfer, or otherwise dispose of) any of Borrower's or its Subsidiaries assets.

**6.5 Change of Control.** Cause, permit, or suffer, directly or indirectly, any Change of Control.

**6.6 Imposition of Restrictions on Payment.** Borrower shall not, without the prior written consent of all Lenders, agree to the imposition of any restriction on Borrower or any other

Loan Party's ability to make payments in respect of this Agreement or the other Loan Documents, in accordance with their respective terms.

**6.7 Use of Proceeds.** Use the proceeds of the Term Loans for any purpose other than as a contribution or loan to the Purchaser (as defined in the MDT Acquisition Agreement) for use in effecting the consummation of the MDT Acquisition.

7. [RESERVED].

**8. EVENTS OF DEFAULT.**

Any one or more of the following events shall constitute an event of default (each, an "Event of Default") under this Agreement:

**8.1** If Borrower fails to pay when due and payable, or when declared due and payable, all or any portion of the Obligations;

**8.2** If Borrower or any of its Subsidiaries;

(c) fails to perform or observe any covenant or other agreement applicable to such Person contained in any of (i) Sections 5.1, 5.3 (solely if such Person refuses to discuss such Person's affairs, finances, and accounts with officers and employees of such Person or to provide any audit or inspection reports received by such Person under the Other Credit Facility), 5.4 (solely if such Person is not in good standing in its jurisdiction of organization), or 5.6, or (ii) Sections 6.1 through 6.7 of this Agreement; or

(d) fails to perform or observe any covenant or other agreement applicable to such Person contained in this Agreement, or in any of the other Loan Documents, in each case, other than any such covenant or agreement that is the subject of another provision of this Section 8 (in which event such other provision of this Section 8 shall govern), and such failure continues for a period of 30 days after the earlier of (i) the date on which such failure shall first become known to any officer of such Person or (ii) the date on which written notice thereof is given to Borrower by Agent;

**8.3** If an Insolvency Proceeding is commenced by a Loan Party or any of its Subsidiaries (other than Excluded Subsidiaries);

**8.4** If an Insolvency Proceeding is commenced against a Loan Party and any of the following events occur: (a) such Loan Party consents to the institution of such Insolvency Proceeding against it, (b) the petition commencing the Insolvency Proceeding is not timely controverted, (c) the petition commencing the Insolvency Proceeding is not dismissed within 60 calendar days of the date of the filing thereof, (d) an interim trustee is appointed to take possession of all or any substantial portion of the properties or assets of, or to operate all or any substantial portion of the business of, such Loan Party, or (e) an order for relief shall have been issued or entered therein;

**8.5** If any warranty, representation, statement, or Record made herein or in any other Loan Document proves to be untrue in any material respect (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) as of the date of issuance or making or deemed making thereof;

**8.6** If the obligation of any Guarantor under the Guaranty is limited or terminated by operation of law or by such Guarantor;

**8.7** The validity or enforceability of any Loan Document shall at any time for any reason (other than solely as the result of an action or failure to act on the part of Agent) be declared to be null and void, or a proceeding shall be commenced by a Loan Party or its Subsidiaries, or by any Governmental Authority having jurisdiction over a Loan Party or its Subsidiaries, seeking to establish the invalidity or unenforceability thereof, or a Loan Party or its Subsidiaries shall deny that such Loan Party or its Subsidiaries has any liability or obligation purported to be created under any Loan Document;

**8.8** If any amount owing under the Other Credit Facility shall be declared due, payable and accelerated as a result of a default under the Other Credit Agreement; or

**8.9** If the Borrower fails to maintain in place an Other Credit Facility containing substantially the same representations, warranties, covenants and events of default as the Existing Credit Agreement for more than a ninety (90) day period, unless this Agreement is amended to incorporate representations, warranties, affirmative and negative covenants, and events of default not originally included in this Agreement, but otherwise included in the Existing Credit Facility; provided, however, that Agent agrees to negotiate in good faith with Borrower the scope and inclusion of any such additional or modified representations, warranties, affirmative and negative covenants, and events of default in light of then-current market conditions for companies having similar creditworthiness as Borrower at the time of such negotiation prior to declaring an Event of Default pursuant to this Section 8.9.

## **9. RIGHTS AND REMEDIES.**

**9.1 Rights and Remedies.** Upon the occurrence and during the continuation of an Event of Default, Agent may, and, at the instruction of the Required Lenders, shall, in each case by written notice to Borrower and in addition to any other rights or remedies provided for hereunder or under any other Loan Document or by applicable law, declare the Obligations, whether evidenced by this Agreement or by any of the other Loan Documents immediately due and payable, whereupon the same shall become and be immediately due and payable, without presentment, demand, protest, or further notice or other requirements of any kind, all of which are hereby expressly waived by Borrower.

The foregoing to the contrary notwithstanding, upon the occurrence of any Event of Default described in Section 8.3 or Section 8.4, in addition to the remedies set forth above, without any notice to Borrower or any other Person or any act by the Lender Group, the Obligations then outstanding, together with all accrued and unpaid interest thereon and all fees and all other amounts

due under this Agreement and the other Loan Documents, shall automatically and immediately become due and payable, without presentment, demand, protest, or notice of any kind, all of which are expressly waived by Borrower.

**9.2 Remedies Cumulative.** The rights and remedies of the Lender Group under this Agreement, the other Loan Documents, and all other agreements shall be cumulative. The Lender Group shall have all other rights and remedies not inconsistent herewith as provided under the Code, by law, or in equity. No exercise by the Lender Group of one right or remedy shall be deemed an election, and no waiver by the Lender Group of any Event of Default shall be deemed a continuing waiver. No delay by the Lender Group shall constitute a waiver, election, or acquiescence by it.

## 10. WAIVERS;

### INDEMNIFICATION.

**10.1 Demand; Protest; etc.** Borrower waives demand, protest, notice of protest, notice of default or dishonor, notice of payment and nonpayment, nonpayment at maturity, release, compromise, settlement, extension, or renewal of documents, instruments, chattel paper, and guarantees at any time held by the Lender Group on which Borrower may in any way be liable.

**10.2 Indemnification.** Borrower shall pay, indemnify, defend, and hold the Agent-Related Persons, the Lender-Related Persons, and each Participant (each, an "Indemnified Person") harmless (to the fullest extent permitted by law) from and against any and all claims, demands, suits, actions, investigations, proceedings, liabilities, fines, costs, penalties, and damages, and all reasonable fees and disbursements of attorneys, experts, or consultants and all other costs and expenses actually incurred in connection therewith or in connection with the enforcement of this indemnification (as and when they are incurred and irrespective of whether suit is brought) (collectively, "Losses"), at any time asserted against, imposed upon, or incurred by any of them (a) in connection with or as a result of or related to the execution and delivery of this Agreement, any of the other Loan Documents, or the transactions contemplated hereby or thereby or the enforcement of this Agreement and the other Loan Documents or the transactions contemplated hereby or thereby (other than disputes solely between the Lenders that do not relate to an action or omission of a Loan Party) (provided that Borrower shall not be liable for costs and expenses (including attorneys fees) of any Lender (other than Lender Group Expenses of Synovus), (b) with respect to any investigation, litigation, or proceeding related to this Agreement, any other Loan Document, or the use of the proceeds of the credit provided hereunder (irrespective of whether any Indemnified Person is a party thereto), or any act, omission, event, or circumstance in any manner related thereto, and (c) in connection with or arising out of any presence or release of Hazardous Materials at, on, under, to or from any assets or properties owned, leased or operated by Borrower or any of its Subsidiaries or any Environmental Actions, Environmental Liabilities or Remedial Actions related in any way to any such assets or properties of Borrower or any of its Subsidiaries (each and all of the foregoing, the "Indemnified Liabilities"). The foregoing to the contrary notwithstanding, Borrower shall have no obligation to any Indemnified Person under this Section 10.2 with respect to any Indemnified Liability that a court of competent jurisdiction finally determines to have resulted from the gross negligence or willful misconduct of such Indemnified Person or its officers, directors, employees, attorneys, or agents. This provision shall survive the termination of this Agreement and the repayment of the Obligations. If any Indemnified Person

makes any payment to any other Indemnified Person with respect to an Indemnified Liability as to which Borrower was required to indemnify the Indemnified Person receiving such payment, the Indemnified Person making such payment is entitled to be indemnified and reimbursed by Borrower with respect thereto. **WITHOUT LIMITATION, THE FOREGOING INDEMNITY SHALL APPLY TO EACH INDEMNIFIED PERSON WITH RESPECT TO INDEMNIFIED LIABILITIES WHICH IN WHOLE OR IN PART ARE CAUSED BY OR ARISE OUT OF ANY NEGLIGENT ACT OR OMISSION OF SUCH INDEMNIFIED PERSON OR OF ANY OTHER PERSON. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, IN NO EVENT SHALL BORROWER HAVE ANY OBLIGATION TO INDEMNIFY ANY INDEMNIFIED PERSON WITH RESPECT TO EXCLUDED LIABILITIES. BORROWER, ON BEHALF OF ITSELF AND ITS SUBSIDIARIES, HEREBY ACKNOWLEDGES AND AGREES THAT, NOTWITHSTANDING (I) ANY LIMITATION OR EXCEPTION TO BORROWER'S INDEMNIFICATION OBLIGATIONS (WHETHER SUCH LIMITATIONS OR EXCEPTIONS ARISE UNDER THIS SECTION 10.2 OR THE SYNOVUS INDEMNITY AGREEMENT) OR (II) ANY INDEMNIFICATION OBLIGATION OWING TO BORROWER, ANY PURCHASER INDEMNIFIED PARTY (AS SUCH TERM IS DEFINED IN THE MDT ACQUISITION AGREEMENT) OR ANY OTHER PERSON BY AGENT ARISING UNDER THE SYNOVUS INDEMNITY AGREEMENT, NO SUCH LIMITATION, EXCEPTION OR INDEMNIFICATION OBLIGATION SHALL HAVE THE AFFECT OF, OR SHALL BE CONSTRUED TO, REDUCE, IMPAIR, INVALIDATE, OBIVATE , CREATE OR PERMIT A RIGHT OF SETOFF OR RECOUPMENT, OR OTHERWISE EFFECT BORROWER'S AND EACH GUARANTOR'S OBLIGATIONS OWING TO AGENT OR ANY OTHER MEMBER OF THE LENDER GROUP UNDER THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS.**

#### 11. NOTICES.

Unless otherwise provided in this Agreement, all notices or demands relating to this Agreement or any other Loan Document shall be in writing and (except for financial statements and other informational documents which may be sent by first-class mail, postage prepaid) shall be personally delivered or sent by registered or certified mail (postage prepaid, return receipt requested), overnight courier, electronic mail (at such email addresses as a party may designate in accordance herewith), or telefacsimile. In the case of notices or demands to Borrower or Agent, as the case may be, they shall be sent to the respective address set forth below:

If to Borrower: TrueBlue  
1015 A Street  
Tacoma, Washington 98402  
Attn: Todd N. Gilman, Associate General Counsel  
Fax No. (253) 502-5792

with copies to: K&L Gates

222 SW Columbia St., Suite 1400  
Portland, OR 97201  
Attn: R. Gibson Masters, Esq.  
Fax No.: (503) 553-6299

If to Agent: Synovus Bank  
5100 Lavista Road  
Tucker, Georgia 30084  
Attn: Terry Herron  
Fax No.: (770) 270-9132

with copies to: Arnall Golden Gregory LLP  
171 17<sup>th</sup> Street NW, Suite 2100  
Atlanta, Georgia 30363  
Attn: Ronald A. Weiner, Esq.  
Fax No. (404) 873-8193

Any party hereto may change the address at which they are to receive notices hereunder, by notice in writing in the foregoing manner given to the other party. All notices or demands sent in accordance with this Section 11, shall be deemed received on the earlier of the date of actual receipt or 3 Business Days after the deposit thereof in the mail; provided, that (a) notices sent by overnight courier service shall be deemed to have been given when received, (b) notices by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient) and (c) notices by electronic mail shall be deemed received upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return email or other written acknowledgment).

**12. CHOICE OF LAW, VENUE; JURY TRIAL  
WAIVER.**

**(c) THE VALIDITY OF THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (UNLESS EXPRESSLY PROVIDED TO THE CONTRARY IN ANOTHER LOAN DOCUMENT IN RESPECT OF SUCH OTHER LOAN DOCUMENT), THE CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT HEREOF AND THEREOF, AND THE RIGHTS OF THE PARTIES HERETO AND THERETO WITH RESPECT TO ALL MATTERS ARISING HEREUNDER OR THEREUNDER OR RELATED HERETO OR THERETO SHALL BE DETERMINED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF GEORGIA.**

**(d) THE PARTIES AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS SHALL BE TRIED AND LITIGATED ONLY IN THE STATE AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, FEDERAL COURTS LOCATED IN THE COUNTY OF FULTON, STATE OF GEORGIA. BORROWER AND EACH MEMBER OF**

**THE LENDER GROUP WAIVE, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, ANY RIGHT EACH MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION 12(b).**

**(e) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, BORROWER AND EACH MEMBER OF THE LENDER GROUP HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF ANY OF THE LOAN DOCUMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED THEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS. BORROWER AND EACH MEMBER OF THE LENDER GROUP REPRESENT THAT EACH HAS REVIEWED THIS WAIVER AND EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. IN THE EVENT OF LITIGATION, A COPY OF THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.**

**13.ASSIGNMENTS AND PARTICIPATIONS;  
SUCCESSORS.**

**13.1 Assignments and Participations.**

(a) With the prior written consent of Borrower, which consent shall not be required (1) if an Event of Default has occurred and is continuing, and (2) in connection with an assignment to a Person that is a Lender or an Affiliate (other than individuals) of a Lender and with the prior written consent of Agent, which consent of Agent shall not be unreasonably withheld, delayed or conditioned, and shall not be required in connection with an assignment to a Person that is a Lender or an Affiliate (other than individuals) of a Lender, any Lender may assign and delegate to one or more assignees (each an "Assignee"; provided that no Loan Party or Affiliate of a Loan Party shall be permitted to become an Assignee) all or any portion of the Obligations and the other rights and obligations of such Lender hereunder and under the other Loan Documents, in a minimum amount (unless waived by Agent) of \$5,000,000 (except such minimum amount shall not apply to (x) an assignment or delegation by any Lender to any other Lender or an Affiliate of any Lender or (y) a group of new Lenders, each of which is an Affiliate of each other or a Related Fund of such new Lender to the extent that the aggregate amount to be assigned to all such new Lenders is at least \$5,000,000); provided, however, that Borrower and Agent may continue to deal solely and directly with such Lender in connection with the interest so assigned to an Assignee until (i) written notice of such assignment, together with payment instructions, addresses, and related information with respect to the Assignee, have been given to Borrower and Agent by such Lender and the Assignee, (ii) such Lender and its Assignee have delivered to Borrower and Agent an Assignment and Acceptance and Agent has notified the assigning Lender of its receipt thereof in accordance with Section 13.1(b), and (iii) unless waived by Agent, the assigning Lender or Assignee has paid to Agent for Agent's separate account a processing fee in the amount of \$3,500. Notwithstanding the foregoing, nothing contained herein shall be construed to prohibit or otherwise limit the acquisition of the assets or stock of Agent or any other Lender by any other Person or the merger

of the Agent or any other Lender with and/or into any other Person, as the case may be, which in no event shall require the Borrower's consent.

(b) From and after the date that Agent notifies the assigning Lender (with a copy to Borrower) that it has received an executed Assignment and Acceptance and, if applicable, payment of the required processing fee, (i) the Assignee thereunder shall be a party hereto and, to the extent that rights and obligations hereunder have been assigned to it pursuant to such Assignment and Acceptance, shall have the rights and obligations of a Lender under the Loan Documents, and (ii) the assigning Lender shall, to the extent that rights and obligations hereunder and under the other Loan Documents have been assigned by it pursuant to such Assignment and Acceptance, relinquish its rights (except with respect to Section 10.2) and be released from any future obligations under this Agreement (and in the case of an Assignment and Acceptance covering all or the remaining portion of an assigning Lender's rights and obligations under this Agreement and the other Loan Documents, such Lender shall cease to be a party hereto and thereto); provided, however, that nothing contained herein shall release any assigning Lender from obligations that survive the termination of this Agreement, including such assigning Lender's obligations under Section 15 and Section 17.8(a).

(c) By executing and delivering an Assignment and Acceptance, the assigning Lender thereunder and the Assignee thereunder confirm to and agree with each other and the other parties hereto as follows: (i) other than as provided in such Assignment and Acceptance, such assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or any other Loan Document furnished pursuant hereto, (ii) such assigning Lender makes no representation or warranty and assumes no responsibility with respect to the financial condition of Borrower or the performance or observance by Borrower of any of its obligations under this Agreement or any other Loan Document furnished pursuant hereto, (iii) such Assignee confirms that it has received a copy of this Agreement, together with such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Acceptance, (iv) such Assignee will, independently and without reliance upon Agent, such assigning Lender or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement, (v) such Assignee appoints and authorizes Agent to take such actions and to exercise such powers under this Agreement and the other Loan Documents as are delegated to Agent, by the terms hereof and thereof, together with such powers as are reasonably incidental thereto, and (vi) such Assignee agrees that it will perform all of the obligations which by the terms of this Agreement are required to be performed by it as a Lender.

(d) Immediately upon Agent's receipt of the required processing fee, if applicable, and delivery of notice to the assigning Lender pursuant to Section 13.1(b), this Agreement shall be deemed to be amended to the extent, but only to the extent, necessary to reflect the addition of the Assignee as a party hereto.

(e) With the prior written consent of Borrower, which consent shall not be required if an Event of Default has occurred and is continuing, any Lender may at any time sell to



one or more commercial banks, financial institutions, or other Persons (a “Participant”) participating interests in all or any portion of its Obligations and the other rights and interests of that Lender (the “Originating Lender”) hereunder and under the other Loan Documents; provided, however, that (i) the Originating Lender shall remain a “Lender” for all purposes of this Agreement and the other Loan Documents and the Participant receiving the participating interest in the Obligations and the other rights and interests of the Originating Lender hereunder shall not constitute a “Lender” hereunder or under the other Loan Documents and the Originating Lender’s obligations under this Agreement shall remain unchanged, (ii) the Originating Lender shall remain solely responsible for the performance of such obligations, (iii) Borrower, Agent, and the Lenders shall continue to deal solely and directly with the Originating Lender in connection with the Originating Lender’s rights and obligations under this Agreement and the other Loan Documents, (iv) no Lender shall transfer or grant any participating interest under which the Participant has the right to approve any amendment to, or any consent or waiver with respect to, this Agreement or any other Loan Document, except to the extent such amendment to, or consent or waiver with respect to this Agreement or of any other Loan Document would (A) extend the final maturity date of the Obligations hereunder in which such Participant is participating, (B) reduce the interest rate applicable to the Obligations hereunder in which such Participant is participating, (C) release all or substantially all of the guaranties (except to the extent expressly provided herein or in any of the Loan Documents) supporting the Obligations hereunder in which such Participant is participating, (D) postpone the payment of, or reduce the amount of, the interest or fees payable to such Participant through such Lender, or (E) change the amount or due dates of scheduled principal repayments or prepayments or premiums, and (v) all amounts payable by Borrower hereunder shall be determined as if such Lender had not sold such participation, except that, if amounts outstanding under this Agreement are due and unpaid, or shall have been declared or shall have become due and payable upon the occurrence of an Event of Default, each Participant shall be deemed to have the right of set off in respect of its participating interest in amounts owing under this Agreement to the same extent as if the amount of its participating interest were owing directly to it as a Lender under this Agreement. The rights of any Participant only shall be derivative through the Originating Lender with whom such Participant participates and no Participant shall have any rights under this Agreement or the other Loan Documents or any direct rights as to the other Lenders, Agent, Borrower, the Collections of Borrower or its Subsidiaries, or otherwise in respect of the Obligations. No Participant shall have the right to participate directly in the making of decisions by the Lenders among themselves. Notwithstanding the foregoing, nothing contained herein shall be construed to prohibit or otherwise limit the acquisition of the assets or stock of Agent or any other Lender by any other Person or the merger of the Agent or any other Lender with and/or into any other Person, as the case may be, which in no event shall require the Borrower’s consent.

(f) In connection with any such assignment or participation or proposed assignment or participation or any grant of a security interest in, or pledge of, its rights under and interest in this Agreement, a Lender may, subject to the provisions of Section 17.8, disclose all documents and information which it now or hereafter may have relating to Borrower and its Subsidiaries and their respective businesses.

(g) Any other provision in this Agreement notwithstanding, any Lender may at any time create a security interest in, or pledge, all or any portion of its rights under and interest in

this Agreement in favor of any Federal Reserve Bank in accordance with Regulation A of the Federal Reserve Bank or U.S. Treasury Regulation 31 CFR §203.24, and such Federal Reserve Bank may enforce such pledge or security interest in any manner permitted under applicable law.

**13.2 Successors.** This Agreement shall bind and inure to the benefit of the respective successors and assigns of each of the parties; provided, however, that Borrower may not assign this Agreement or any rights or duties hereunder without the Lenders' prior written consent and any prohibited assignment shall be absolutely void *ab initio*. No consent to assignment by the Lenders shall release Borrower from its Obligations. A Lender may assign this Agreement and the other Loan Documents and its rights and duties hereunder and thereunder pursuant to Section 13.1 and, except as expressly required pursuant to Section 13.1, no consent or approval by Borrower is required in connection with any such assignment.

#### 14. AMENDMENTS;

#### WAIVERS.

##### 14.1 Amendments and Waivers.

(a) No amendment, waiver or other modification of any provision of this Agreement or any other Loan Document, and no consent with respect to any departure by Borrower therefrom, shall be effective unless the same shall be in writing and signed by the Required Lenders (or by Agent at the written request of the Required Lenders) and Borrower and then any such waiver or consent shall be effective, but only in the specific instance and for the specific purpose for which given; provided, however, that no such waiver, amendment, or consent shall, unless in writing and signed by all of the Lenders directly affected thereby and Borrower, do any of the following:

(i) postpone or delay any date fixed by this Agreement or any other Loan Document for any payment of principal, interest, fees, or other amounts due hereunder or under any other Loan Document,

(ii) reduce the principal of, or the rate of interest on, any loan or other extension of credit hereunder, or reduce any fees or other amounts payable hereunder or under any other Loan Document (except (y) in connection with the waiver of applicability of Section 2.5(c) (which waiver shall be effective with the written consent of the Required Lenders), and (z) that any amendment or modification of defined terms used in the financial covenants in this Agreement shall not constitute a reduction in the rate of interest or a reduction of fees for purposes of this clause (iii),

(iii) amend or modify this Section or any provision of this Agreement providing for consent or other action by all Lenders,

(iv) change the definition of "Required Lenders" or "Pro Rata Share",

(v) other than in connection with a merger, liquidation, dissolution, or sale of such Person expressly permitted by the terms hereof or the other Loan Documents, release Borrower or any Guarantor from any obligation for the payment of money or consent to the

assignment or transfer by Borrower or any Guarantor of any of its rights or duties under this Agreement or the other Loan Documents, or

(vi) amend Section 13.1(a) to permit a Loan Party, or an Affiliate of a Loan Party to be permitted to become an Assignee.

(b) No amendment, waiver, modification, or consent shall amend, modify, or waive any provision of Section 15 pertaining to Agent, or any other rights or duties of Agent under this Agreement or the other Loan Documents, without the written consent of Agent, Borrower, and the Required Lenders,

(c) Anything in this Section 14.1 to the contrary notwithstanding, any amendment, modification, waiver, consent, termination, or release of, or with respect to, any provision of this Agreement or any other Loan Document that relates only to the relationship of the Lender Group among themselves, and that does not affect the rights or obligations of Borrower, shall not require consent by or the agreement of Borrower.

#### **14.2 Replacement of Certain Lenders.**

(a) If (i) any action to be taken by the Lender Group or Agent hereunder requires the unanimous consent, authorization, or agreement of all Lenders and if such action has received the consent, authorization, or agreement of the Required Lenders but not all of the Lenders or (ii) any Lender makes a claim for compensation under Section 16, then within 120 days thereafter Borrower or Agent, upon at least 5 Business Days prior irrevocable notice, may permanently replace any Lender (a "Holdout Lender") that failed to give its consent, authorization, or agreement or made a claim for compensation (a "Tax Lender") with one or more Replacement Lenders, and the Holdout Lender or Tax Lender, as applicable, shall have no right to refuse to be replaced hereunder. Such notice to replace the Holdout Lender or Tax Lender, as applicable, shall specify an effective date for such replacement, which date shall not be later than 15 Business Days after the date such notice is given.

(b) Prior to the effective date of such replacement, the Holdout Lender and each Replacement Lender shall execute and deliver an Assignment and Acceptance, subject only to the Holdout Lender being repaid its share of the outstanding Obligations without any premium or penalty of any kind whatsoever. If the Holdout Lender shall refuse or fail to execute and deliver any such Assignment and Acceptance prior to the effective date of such replacement, the Holdout Lender shall be deemed to have executed and delivered such Assignment and Acceptance. The replacement of any Holdout Lender shall be made in accordance with the terms of Section 13.1. Until such time as the Replacement Lenders shall have acquired all of the Obligations and the other rights and obligations of the Holdout Lender hereunder and under the other Loan Documents, the Holdout Lender shall remain obligated to make the Holdout Lender's Pro Rata Share of Term Loans.

**14.3 No Waivers; Cumulative Remedies.** No failure by Agent or any Lender to exercise any right, remedy, or option under this Agreement or any other Loan Document, or delay by Agent or any Lender in exercising the same, will operate as a waiver thereof. No waiver by Agent or any

Lender will be effective unless it is in writing, and then only to the extent specifically stated. No waiver by Agent or any Lender on any occasion shall affect or diminish Agent's and each Lender's rights thereafter to require strict performance by Borrower of any provision of this Agreement. Agent's and each Lender's rights under this Agreement and the other Loan Documents will be cumulative and not exclusive of any other right or remedy that Agent or any Lender may have.

**15.AGENT; THE LENDER  
GROUP.**

**15.1 Appointment and Authorization of Agent.** Each Lender hereby designates and appoints Synovus Bank as its representative under this Agreement and the other Loan Documents and each Lender hereby irrevocably authorizes Agent to execute and deliver each of the other Loan Documents on its behalf and to take such other action on its behalf under the provisions of this Agreement and each other Loan Document and to exercise such powers and perform such duties as are expressly delegated to Agent by the terms of this Agreement or any other Loan Document, together with such powers as are reasonably incidental thereto. Agent agrees to act as such on the express conditions contained in this Section 15. Any provision to the contrary contained elsewhere in this Agreement or in any other Loan Document notwithstanding, Agent shall not have any duties or responsibilities, except those expressly set forth herein, nor shall Agent have or be deemed to have any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against Agent; it being expressly understood and agreed that the use of the word "Agent" is for convenience only, that Synovus Bank is merely the representative of the Lenders, and only has the contractual duties set forth herein. Except as expressly otherwise provided in this Agreement, Agent shall have and may use its sole discretion with respect to exercising or refraining from exercising any discretionary rights or taking or refraining from taking any actions that Agent expressly is entitled to take or assert under or pursuant to this Agreement and the other Loan Documents. Without limiting the generality of the foregoing, or of any other provision of the Loan Documents that provides rights or powers to Agent, Lenders agree that Agent shall have the right to exercise the following powers as long as this Agreement remains in effect: (a) maintain, in accordance with its customary business practices, ledgers and records reflecting the status of the Obligations and related matters, (b) execute or file any and all statements or notices, amendments, renewals, supplements, documents, instruments, proofs of claim, notices and other written agreements with respect to the Loan Documents, (c) perform, exercise, and enforce any and all other rights and remedies of the Lender Group with respect to Borrower or its Subsidiaries, the Obligations, or otherwise related to any of same as provided in the Loan Documents, and (d) incur and pay such Lender Group Expenses as Agent may deem necessary or appropriate for the performance and fulfillment of its functions and powers pursuant to the Loan Documents.

**15.2 Delegation of Duties.** Agent may execute any of its duties under this Agreement or any other Loan Document by or through agents, employees or attorneys in fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. Agent shall not be responsible for the negligence or misconduct of any agent or attorney in fact that it selects as long as such selection was made without gross negligence or willful misconduct.

**15.3 Liability of Agent.** None of the Agent-Related Persons shall (a) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby (except for its own gross negligence or willful misconduct), or (b) be responsible in any manner to any of the Lenders for any recital, statement, representation or warranty made by Borrower or any of its Subsidiaries or Affiliates, or any officer or director thereof, contained in this Agreement or in any other Loan Document, or in any certificate, report, statement or other document referred to or provided for in, or received by Agent under or in connection with, this Agreement or any other Loan Document, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document, or for any failure of Borrower or its Subsidiaries or any other party to any Loan Document to perform its obligations hereunder or thereunder. No Agent-Related Person shall be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the books and records or properties of Borrower or its Subsidiaries.

**15.4 Reliance by Agent.** Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, telefacsimile or other electronic method of transmission, telex or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent, or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to Borrower or counsel to any Lender), independent accountants and other experts selected by Agent. Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless Agent shall first receive such advice or concurrence of the Lenders as it deems appropriate and until such instructions are received, Agent shall act, or refrain from acting, as it deems advisable. If Agent so requests, it shall first be indemnified to its reasonable satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the requisite Lenders and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Lenders.

**15.5 Notice of Default or Event of Default.** Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, except with respect to defaults in the payment of principal, interest, fees, and expenses required to be paid to Agent for the account of the Lenders and, except with respect to Events of Default of which Agent has actual knowledge, unless Agent shall have received written notice from a Lender or Borrower referring to this Agreement, describing such Default or Event of Default, and stating that such notice is a “notice of default.” Agent promptly will notify the Lenders of its receipt of any such notice or of any Event of Default of which Agent has actual knowledge. If any Lender obtains actual knowledge of any Event of Default, such Lender promptly shall notify the other Lenders and Agent of such Event of Default. Each Lender shall be solely responsible for giving any notices to its Participants, if any. Subject to Section 15.4, Agent shall take such action with respect to such Default or Event of Default as may be requested by the Required Lenders in accordance with Section 9; provided, however, that unless and until Agent has received any such request, Agent may (but shall not be obligated

to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable.

**15.6 Credit Decision.** Each Lender acknowledges that none of the Agent-Related Persons has made any representation or warranty to it, and that no act by Agent hereinafter taken, including any review of the affairs of Borrower and its Subsidiaries or Affiliates, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender. Each Lender represents to Agent that it has, independently and without reliance upon any Agent-Related Person and based on such due diligence, documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of Borrower or any other Person party to a Loan Document, and all applicable bank regulatory laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to Borrower. Each Lender also represents that it will, independently and without reliance upon any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of Borrower or any other Person party to a Loan Document. Except for notices, reports, and other documents expressly herein required to be furnished to the Lenders by Agent, Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of Borrower or any other Person party to a Loan Document that may come into the possession of any of the Agent-Related Persons. Each Lender acknowledges that Agent does not have any duty or responsibility, either initially or on a continuing basis (except to the extent, if any, that is expressly specified herein) to provide such Lender with any credit or other information with respect to Borrower, its Affiliates or any of their respective business, legal, financial or other affairs, and irrespective of whether such information came into Agent's or its Affiliates' or representatives' possession before or after the date on which such Lender became a party to this Agreement.

**15.7 Costs and Expenses; Indemnification.** Agent may incur and pay Lender Group Expenses to the extent Agent reasonably deems necessary or appropriate for the performance and fulfillment of its functions, powers, and obligations pursuant to the Loan Documents, including court costs, attorneys fees and expenses, fees and expenses of financial accountants, advisors, consultants, and appraisers, and costs of collection by outside collection agencies, whether or not Borrower is obligated to reimburse Agent or Lenders for such expenses pursuant to this Agreement or otherwise. Agent is authorized and directed to deduct and retain sufficient amounts from the Collections of Borrower and its Subsidiaries received by Agent to reimburse Agent for such out-of-pocket costs and expenses prior to the distribution of any amounts to Lenders. In the event Agent is not reimbursed for such costs and expenses by Borrower or its Subsidiaries, each Lender hereby agrees that it is and shall be obligated to pay to Agent such Lender's Pro Rata Share thereof. Whether or not the transactions contemplated hereby are consummated, the Lenders shall indemnify upon demand the Agent-Related Persons (to the extent not reimbursed by or on behalf of Borrower and without limiting the obligation of Borrower to do so), according to their Pro Rata Shares, from and against any and all Indemnified Liabilities; provided, however, that no Lender shall be liable for

the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting solely from such Person's gross negligence or willful misconduct nor shall any Lender be liable for the obligations of any Lender in failing to make an extension of credit hereunder. Without limitation of the foregoing, each Lender shall reimburse Agent upon demand for such Lender's Pro Rata Share of any costs or out of pocket expenses (including attorneys, accountants, advisors, and consultants fees and expenses) incurred by Agent in connection with the preparation, execution, delivery, administration, modification, amendment, or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that Agent is not reimbursed for such expenses by or on behalf of Borrower. Notwithstanding anything herein to the contrary, Lenders shall be liable and indemnify Agent-Related Persons for only Indemnified Liabilities and other costs and expenses that relate to or arise from an Agent-Related Person acting as or for Agent (in its capacity as Agent). The undertaking in this Section shall survive the payment of all Obligations hereunder and the resignation or replacement of Agent.

**15.8 Agent in Individual Capacity.** Synovus Bank and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire equity interests in, and generally engage in any kind of banking, trust, financial advisory, underwriting, or other business with Borrower and its Subsidiaries and Affiliates and any other Person party to any Loan Document as though Synovus Bank were not Agent hereunder, and, in each case, without notice to or consent of the other members of the Lender Group. The other members of the Lender Group acknowledge that, pursuant to such activities, Synovus Bank or its Affiliates may receive information regarding Borrower or its Affiliates or any other Person party to any Loan Documents that is subject to confidentiality obligations in favor of Borrower or such other Person and that prohibit the disclosure of such information to the Lenders, and the Lenders acknowledge that, in such circumstances (and in the absence of a waiver of such confidentiality obligations, which waiver Agent will use its reasonable best efforts to obtain), Agent shall not be under any obligation to provide such information to them. The terms "Lender" and "Lenders" include Synovus Bank in its individual capacity.

**15.9 Successor Agent.** Agent may resign as Agent upon 30 days prior written notice to the Lenders (unless such notice is waived by the Required Lenders) and Borrower (unless such notice is waived by Borrower). If Agent resigns under this Agreement, the Required Lenders shall be entitled, with (so long as no Event of Default has occurred and is continuing) the consent of Borrower (such consent not to be unreasonably withheld, delayed, or conditioned), appoint a successor Agent for the Lenders. If no successor Agent is appointed prior to the effective date of the resignation of Agent, Agent may appoint, after consulting with the Lenders and Borrower, a successor Agent (from among the Lenders, if possible). If Agent has materially breached or failed to perform any material provision of this Agreement or of applicable law, the Required Lenders may agree in writing to remove and replace Agent with a successor Agent from among the Lenders with (so long as no Event of Default has occurred and is continuing) the consent of Borrower (such consent not to be unreasonably withheld, delayed, or conditioned). In any such event, upon the acceptance of its appointment as successor Agent hereunder, such successor Agent shall succeed to all the rights, powers, and duties of the retiring Agent and the term "Agent" shall mean such successor Agent and the retiring Agent's appointment, powers, and duties as Agent shall be

terminated. After any retiring Agent's resignation hereunder as Agent, the provisions of this Section 15 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement. If no successor Agent has accepted appointment as Agent by the date which is 30 days following a retiring Agent's notice of resignation, the retiring Agent's resignation shall nevertheless thereupon become effective and the Lenders shall perform all of the duties of Agent hereunder until such time, if any, as the Lenders appoint a successor Agent as provided for above.

**15.10 Lender in Individual Capacity.** Any Lender and its respective Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire equity interests in and generally engage in any kind of banking, trust, financial advisory, underwriting, or other business with Borrower and its Subsidiaries and Affiliates and any other Person party to any Loan Documents as though such Lender were not a Lender hereunder without notice to or consent of the other members of the Lender Group. The other members of the Lender Group acknowledge that, pursuant to such activities, such Lender and its respective Affiliates may receive information regarding Borrower or its Affiliates or any other Person party to any Loan Documents that is subject to confidentiality obligations in favor of Borrower or such other Person and that prohibit the disclosure of such information to the Lenders, and the Lenders acknowledge that, in such circumstances (and in the absence of a waiver of such confidentiality obligations, which waiver such Lender will use its reasonable best efforts to obtain), such Lender shall not be under any obligation to provide such information to them.

**15.11 Restrictions on Actions by Lenders; Sharing of Payments.**

(a) Each of the Lenders agrees that it shall not, without the express written consent of Agent, set off against the Obligations, any amounts owing by such Lender to Borrower or its Subsidiaries or any deposit accounts of Borrower or its Subsidiaries now or hereafter maintained with such Lender.

(b) If, at any time or times any Lender shall receive (i) by payment, foreclosure, setoff, or otherwise, or any payments with respect to the Obligations, except for any such proceeds or payments received by such Lender from Agent pursuant to the terms of this Agreement, or (ii) payments from Agent in excess of such Lender's Pro Rata Share of all such distributions by Agent, such Lender promptly shall (A) turn the same over to Agent, in kind, and with such endorsements as may be required to negotiate the same to Agent, or in immediately available funds, as applicable, for the account of all of the Lenders and for application to the Obligations in accordance with the applicable provisions of this Agreement, or (B) purchase, without recourse or warranty, an undivided interest and participation in the Obligations owed to the other Lenders so that such excess payment received shall be applied ratably as among the Lenders in accordance with their Pro Rata Shares; provided, however, that to the extent that such excess payment received by the purchasing party is thereafter recovered from it, those purchases of participations shall be rescinded in whole or in part, as applicable, and the applicable portion of the purchase price paid therefor shall be returned to such purchasing party, but without interest except to the extent that such purchasing party is required to pay interest in connection with the recovery of the excess payment.



**15.12 Payments by Agent to the Lenders.** All payments to be made by Agent to the Lenders shall be made by bank wire transfer of immediately available funds pursuant to such wire transfer instructions as each party may designate for itself by written notice to Agent. Concurrently with each such payment, Agent shall identify whether such payment (or any portion thereof) represents principal, premium, fees, or interest of the Obligations.

**15.13 Concerning the Related Loan Documents.** Each member of the Lender Group authorizes and directs Agent to enter into this Agreement and the other Loan Documents. Each member of the Lender Group agrees that any action taken by Agent in accordance with the terms of this Agreement or the other Loan Documents and the exercise by Agent of its powers set forth therein or herein, together with such other powers that are reasonably incidental thereto, shall be binding upon all of the Lenders.

**15.14 Audits and Examination Reports; Confidentiality; Disclaimers by Lenders; Other Reports and Information.** By becoming a party to this Agreement, each Lender:

(a) is deemed to have requested that Agent furnish such Lender, promptly after it becomes available, a copy of each field audit or examination report respecting Borrower or its Subsidiaries (each a "Report" and collectively, "Reports") prepared by or at the request of Agent, and Agent shall so furnish each Lender with such Reports,

(b) expressly agrees and acknowledges that Agent does not (i) make any representation or warranty as to the accuracy of any Report, and (ii) shall not be liable for any information contained in any Report,

(c) expressly agrees and acknowledges that the Reports are not comprehensive audits or examinations, that Agent or other party performing any audit or examination will inspect only specific information regarding Borrower and its Subsidiaries and will rely significantly upon Borrower's and its Subsidiaries' books and records, as well as on representations of Borrower's personnel,

(d) agrees to keep all Reports and other material, non-public information regarding Borrower and its Subsidiaries and their operations, assets, and existing and contemplated business plans in a confidential manner in accordance with Section 7.8, and

(e) without limiting the generality of any other indemnification provision contained in this Agreement, agrees: (i) to hold Agent and any other Lender preparing a Report harmless from any action the indemnifying Lender may take or fail to take or any conclusion the indemnifying Lender may reach or draw from any Report in connection with any loans or other credit accommodations that the indemnifying Lender has made or may make to Borrower, or the indemnifying Lender's participation in, or the indemnifying Lender's purchase of, a loan or loans of Borrower, and (ii) to pay and protect, and indemnify, defend and hold Agent, and any such other Lender preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including, attorneys fees and costs) incurred by Agent and any

such other Lender preparing a Report as the direct or indirect result of any third party who obtains all or part of any Report through the indemnifying Lender.

In addition to the foregoing: (x) any Lender may from time to time request of Agent in writing that Agent provide to such Lender a copy of any report or document provided by Borrower or its Subsidiaries to Agent that has not been contemporaneously provided by Borrower or such Subsidiary to such Lender, and, upon receipt of such request, Agent promptly shall provide a copy of same to such Lender, (y) to the extent that Agent is entitled, under any provision of the Loan Documents, to request additional reports or information from Borrower or its Subsidiaries, any Lender may, from time to time, reasonably request Agent to exercise such right as specified in such Lender's notice to Agent, whereupon Agent promptly shall request of Borrower the additional reports or information reasonably specified by such Lender, and, upon receipt thereof from Borrower or such Subsidiary, Agent promptly shall provide a copy of same to such Lender, and (z) any time that Agent renders to Borrower a statement regarding the Loan Account, Agent shall send a copy of such statement to each Lender.

**15.15 Several Obligations; No Liability.** Notwithstanding that certain of the Loan Documents now or hereafter may have been or will be executed only by or in favor of Agent in its capacity as such, and not by or in favor of the Lenders, any and all obligations on the part of Agent (if any) to make any credit available hereunder shall constitute the several (and not joint) obligations of the respective Lenders on a ratable basis, according to their respective Term Loan Commitments, to make an amount of such credit not to exceed, in principal amount, at any one time outstanding, the amount of their respective Term Loan Commitments. Nothing contained herein shall confer upon any Lender any interest in, or subject any Lender to any liability for, or in respect of, the business, assets, profits, losses, or liabilities of any other Lender. Each Lender shall be solely responsible for notifying its Participants of any matters relating to the Loan Documents to the extent any such notice may be required, and no Lender shall have any obligation, duty, or liability to any Participant of any other Lender. Except as provided in Section 15.7, no member of the Lender Group shall have any liability for the acts of any other member of the Lender Group. No Lender shall be responsible to Borrower or any other Person for any failure by any other Lender to fulfill its obligations to make credit available hereunder, nor to advance for it or on its behalf in connection with its Term Loan Commitment, nor to take any other action on its behalf hereunder or in connection with the financing contemplated herein.

## 16. WITHHOLDING

### TAXES.

(a) All payments made by Borrower hereunder or under any note or other Loan Document will be made without setoff, counterclaim, or other defense. In addition, all such payments will be made free and clear of, and without deduction or withholding for, any present or future Taxes, and in the event any deduction or withholding of Taxes is required, Borrower shall comply with the next sentence of this Section 16(a). If any Taxes are so levied or imposed, Borrower agrees to pay the full amount of such Taxes and such additional amounts as may be necessary so that every payment of all amounts due under this Agreement, any note, or Loan Document, including any amount paid pursuant to this Section 16(a) after withholding or deduction for or on account of any Taxes, will not be less than the amount provided for herein; provided, however, that Borrower shall

not be required to increase any such amounts if the increase in such amount payable results from Agent's or such Lender's own willful misconduct or gross negligence (as finally determined by a court of competent jurisdiction). Borrower will furnish to Agent as promptly as possible after the date the payment of any Tax is due pursuant to applicable law, certified copies of tax receipts evidencing such payment by Borrower.

(b) Borrower agrees to pay any present or future stamp, value added or documentary taxes or any other excise or property taxes, charges, or similar levies that arise from any payment made hereunder or from the execution, delivery, performance, recordation, or filing of, or otherwise with respect to this Agreement or any other Loan Document.

(c) If a Lender or Participant is entitled to claim an exemption or reduction from United States withholding tax, such Lender or Participant agrees with and in favor of Agent, to deliver to Agent (or, in the case of a Participant, to the Lender granting the participation only) one of the following before receiving its first payment under this Agreement:

(i) if such Lender or Participant is entitled to claim an exemption from United States withholding tax pursuant to the portfolio interest exception, (A) a statement of the Lender or Participant, signed under penalty of perjury, that it is not a (I) a "bank" as described in Section 881(c)(3)(A) of the IRC, (II) a 10% shareholder of Borrower (within the meaning of Section 871(h)(3)(B) of the IRC, or (III) a controlled foreign corporation related to Borrower within the meaning of Section S64(d)(4) of the IRC, and (B) a properly completed and executed IRS Form W-8BEN or Form W-8IMY (with proper attachments);

(ii) if such Lender or Participant is entitled to claim an exemption from, or a reduction of, withholding tax under a United States tax treaty, a properly completed and executed copy of IRS Form W-8BEN;

(iii) if such Lender or Participant is entitled to claim that interest paid under this Agreement is exempt from United States withholding tax because it is effectively connected with a United States trade or business of such Lender, a properly completed and executed copy of IRS Form W-8ECI;

(iv) if such Lender or Participant is entitled to claim that interest paid under this Agreement is exempt from United States withholding tax because such Lender or Participant serves as an intermediary, a properly completed and executed copy of IRS Form W-8IMY (with proper attachments); or

(v) a properly completed and executed copy of any other form or forms, including IRS Form W-9, as may be required under the IRC or other laws of the United States as a condition to exemption from, or reduction of, United States withholding or backup withholding tax.

Each Lender or Participant shall provide new forms (or successor forms) upon the expiration or obsolescence of any previously delivered forms and to promptly notify Agent (or, in the case of a

Participant, to the Lender granting the participation only) of any change in circumstances which would modify or render invalid any claimed exemption or reduction.

(d) If a Lender or Participant claims an exemption from withholding tax in a jurisdiction other than the United States, such Lender or such Participant agrees with and in favor of Agent, to deliver to Agent (or, in the case of a Participant, to the Lender granting the participation only) any such form or forms, as may be required under the laws of such jurisdiction as a condition to exemption from, or reduction of, foreign withholding or backup withholding tax before receiving its first payment under this Agreement, but only if such Lender or such Participant is legally able to deliver such forms, provided, however, that nothing in this Section 16(d) shall require a Lender or Participant to disclose any information that it deems to be confidential (including without limitation, its tax returns). Each Lender and each Participant shall provide new forms (or successor forms) upon the expiration or obsolescence of any previously delivered forms and to promptly notify Agent (or, in the case of a Participant, to the Lender granting the participation only) of any change in circumstances which would modify or render invalid any claimed exemption or reduction.

(e) If a Lender or Participant claims exemption from, or reduction of, withholding tax and such Lender or Participant sells, assigns, grants a participation in, or otherwise transfers all or part of the Obligations of Borrower to such Lender or Participant, such Lender or Participant agrees to notify Agent (or, in the case of a sale of a participation interest, to the Lender granting the participation only) of the percentage amount in which it is no longer the beneficial owner of Obligations of Borrower to such Lender or Participant. To the extent of such percentage amount, Agent will treat such Lender's or such Participant's documentation provided pursuant to Section 16(c) or (d) as no longer valid. With respect to such percentage amount, such Participant or Assignee may provide new documentation, pursuant to Section 16(c) or (d) if applicable. Borrower agrees that each Participant shall be entitled to the benefits of this Section 16 with respect to its participation in any portion of the Term Loan Commitments and the Obligations so long as such Participant complies with the obligations set forth in this Section 16 with respect thereto.

(f) If a Lender or a Participant is entitled to a reduction in the applicable withholding tax, Agent (or, in the case of a Participant, to the Lender granting the participation) may withhold from any interest payment to such Lender or such Participant an amount equivalent to the applicable withholding tax after taking into account such reduction. If the forms or other documentation required by Section 16(c) or 16(d) are not delivered to Agent (or, in the case of a Participant, to the Lender granting the participation), then Agent (or, in the case of a Participant, to the Lender granting the participation) may withhold from any interest payment to such Lender or such Participant not providing such forms or other documentation an amount equivalent to the applicable withholding tax.

(g) If the IRS or any other Governmental Authority of the United States or other jurisdiction asserts a claim that Agent (or, in the case of a Participant, to the Lender granting the participation) did not properly withhold tax from amounts paid to or for the account of any Lender or any Participant due to a failure on the part of the Lender or any Participant (because the appropriate form was not delivered, was not properly executed, or because such Lender failed to notify Agent (or such Participant failed to notify the Lender granting the participation) of a change in

circumstances which rendered the exemption from, or reduction of, withholding tax ineffective, or for any other reason) such Lender shall indemnify and hold Agent harmless (or, in the case of a Participant, such Participant shall indemnify and hold the Lender granting the participation harmless) for all amounts paid, directly or indirectly, by Agent (or, in the case of a Participant, to the Lender granting the participation), as tax or otherwise, including penalties and interest, and including any taxes imposed by any jurisdiction on the amounts payable to Agent (or, in the case of a Participant, to the Lender granting the participation only) under this Section 16, together with all costs and expenses (including attorneys fees and expenses). The obligation of the Lenders and the Participants under this subsection shall survive the payment of all Obligations and the resignation or replacement of Agent.

(h) If Agent or a Lender determines, in its sole discretion, that it has received a refund of any Taxes as to which it has been indemnified by Borrower or with respect to which Borrower has paid additional amounts pursuant to this Section 16, so long as no Default or Event of Default has occurred and is continuing, it shall pay over such refund to Borrower (but only to the extent of payments made, or additional amounts paid, by Borrower under this Section 16 with respect to Taxes giving rise to such a refund), net of all out-of-pocket expenses of Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such a refund); provided, that Borrower, upon the request of Agent or such Lender, agrees to repay the amount paid over to Borrower (plus any penalties, interest or other charges, imposed by the relevant Governmental Authority, other than such penalties, interest or other charges imposed as a result of the willful misconduct or gross negligence of Agent hereunder) to Agent or such Lender in the event Agent or such Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything in this Agreement to the contrary, this Section 16 shall not be construed to require Agent or any Lender to make available its tax returns (or any other information which it deems confidential) to Borrower or any other Person.

## **17. GENERAL PROVISIONS.**

**17.1 Effectiveness.** This Agreement shall be binding and deemed effective when executed by Borrower, Agent, and each Lender whose signature is provided for on the signature pages hereof.

**17.2 Section Headings.** Headings and numbers have been set forth herein for convenience only. Unless the contrary is compelled by the context, everything contained in each Section applies equally to this entire Agreement.

**17.3 Interpretation.** Neither this Agreement nor any uncertainty or ambiguity herein shall be construed against the Lender Group or Borrower, whether under any rule of construction or otherwise. On the contrary, this Agreement has been reviewed by all parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to accomplish fairly the purposes and intentions of all parties hereto.

**17.4 Severability of Provisions.** Each provision of this Agreement shall be severable from every other provision of this Agreement for the purpose of determining the legal enforceability of any specific provision.

**17.5 Debtor-Creditor Relationship.** The relationship between the Lenders and Agent, on the one hand, and the Loan Parties, on the other hand, is solely that of creditor and debtor. No member of the Lender Group has (or shall be deemed to have) any fiduciary relationship or duty to any Loan Party arising out of or in connection with the Loan Documents or the transactions contemplated thereby, and there is no agency or joint venture relationship between the members of the Lender Group, on the one hand, and the Loan Parties, on the other hand, by virtue of any Loan Document or any transaction contemplated therein.

**17.6 Counterparts; Electronic Execution.** This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Agreement. Delivery of an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission shall be equally as effective as delivery of an original executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission also shall deliver an original executed counterpart of this Agreement but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement. The foregoing shall apply to each other Loan Document *mutatis mutandis*.

**17.7 Revival and Reinstatement of Obligations.** If the incurrence or payment of the Obligations by Borrower or Guarantor or the transfer to the Lender Group of any property should for any reason subsequently be asserted, or declared, to be void or voidable under any state or federal law relating to creditors' rights, including provisions of the Bankruptcy Code relating to fraudulent conveyances, preferences, or other voidable or recoverable payments of money or transfers of property (each, a "Voidable Transfer"), and if the Lender Group is required to repay or restore, in whole or in part, any such Voidable Transfer, or elects to do so upon the reasonable advice of its counsel, then, as to any such Voidable Transfer, or the amount thereof that the Lender Group is required or elects to repay or restore, and as to all reasonable costs, expenses, and attorneys fees of the Lender Group related thereto, the liability of Borrower or Guarantor automatically shall be revived, reinstated, and restored and shall exist as though such Voidable Transfer had never been made.

**17.8 Confidentiality.**

(a) Agent and Lenders each individually (and not jointly or jointly and severally) agree that material, non-public information regarding Borrower and its Subsidiaries, their operations, assets, and existing and contemplated business plans ("Confidential Information") shall be treated by Agent and the Lenders in a confidential manner, and shall not be disclosed by Agent and the Lenders to Persons who are not parties to this Agreement, except: (i) to attorneys for and other advisors, accountants, auditors, and consultants to any member of the Lender Group ("Lender Group Representatives"), (ii) to Subsidiaries and Affiliates of any member of the Lender Group,

provided that any such Subsidiary or Affiliate shall have agreed to receive such information hereunder subject to the terms of this Section 17.9, (iii) as may be required by regulatory authorities so long as such authorities are informed of the confidential nature of such information, (iv) as may be required by statute, decision, or judicial or administrative order, rule, or regulation; provided that (x) prior to any disclosure under this clause (iv) the disclosing party agrees to provide Borrower with prior notice thereof, to the extent that it is practicable to do so and to the extent that the disclosing party is permitted to provide such prior notice to Borrower pursuant to the terms of the applicable statute, decision, or judicial or administrative order, rule, or regulation and (y) any disclosure under this clause (v) shall be limited to the portion of the Confidential Information as may be required by such statute, decision, or judicial or administrative order, rule, or regulation, (vi) as may be agreed to in advance by Borrower or as requested or required by any Governmental Authority pursuant to any subpoena or other legal process, provided, that, (x) prior to any disclosure under this clause (vi) the disclosing party agrees to provide Borrower with prior notice thereof, to the extent that it is practicable to do so and to the extent that the disclosing party is permitted to provide such prior notice to Borrower pursuant to the terms of the subpoena or other legal process and (y) any disclosure under this clause (vi) shall be limited to the portion of the Confidential Information as may be required by such governmental authority pursuant to such subpoena or other legal process, (vii) as to any such information that is or becomes generally available to the public (other than as a result of prohibited disclosure by Agent or the Lenders or the Lender Group Representatives), (viii) in connection with any assignment, participation or pledge of any Lender's interest under this Agreement, provided that any such assignee, participant, or pledgee shall have agreed in writing to receive such information hereunder subject to the terms of this Section, and (ix) in connection with any litigation or other adversary proceeding involving parties hereto which such litigation or adversary proceeding involves claims related to the rights or duties of such parties under this Agreement or the other Loan Documents; provided, that, prior to any disclosure to any Person (other than any Loan Party, Agent, any Lender, any of their respective Affiliates, or their respective counsel) under this clause (ix) with respect to litigation involving any Person (other than Borrower, Agent, any Lender, any of their respective Affiliates, or their respective counsel), the disclosing party agrees to provide Borrower with prior notice thereof.

(b) Anything in this Agreement to the contrary notwithstanding, Agent may provide information concerning the terms and conditions of this Agreement and the other Loan Documents to loan syndication and pricing reporting services.

**17.9 Lender Group Expenses.** Borrower agrees to pay any and all Lender Group Expenses promptly after demand therefor by Agent and agrees that its obligations contained in this Section 17.9 shall survive payment or satisfaction in full of all other Obligations.

**17.10 USA PATRIOT Act.** Each Lender that is subject to the requirements of the Patriot Act hereby notifies Borrower that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies Borrower, which information includes the name and address of Borrower and other information that will allow such Lender to identify Borrower in accordance with the Patriot Act.

**17.11 Integration.** This Agreement, together with the other Loan Documents, reflects the entire understanding of the parties with respect to the transactions contemplated hereby and shall not be contradicted or qualified by any other agreement, oral or written, before the date hereof.

**17.12 Subordination.** Borrower hereby agrees that all liabilities and indebtedness of any other Loan Party to Borrower, regardless of the nature of such liabilities and indebtedness, together with all interest, fees, charges, expenses and attorney's fees for which any other Loan Party is now or hereafter becomes liable to pay to Borrower under any agreement, by law, or otherwise (collectively, "Intercompany Debt"), are hereby subordinated in right of payment to the prior payment in full in cash of the Obligations and, upon the occurrence of an Event of Default and during the continuation thereof, Borrower shall not make demand or accept any payment with respect to, or on account of, the Intercompany Debt unless and until the Obligations are paid in full in cash. Notwithstanding the foregoing, so long as no Event of Default then exists or would result therefrom, Borrower may receive and accept payments from any other Loan Party, if any, under the Intercompany Debt. If any payment, distribution or security or the proceeds thereof is received by Borrower from any other Loan Party on account of or with respect to the Intercompany Debt that is not expressly permitted by the terms hereof, Borrower shall hold such payment in trust for Agent and forthwith deliver same to Agent in the form received (except for the addition of any endorsement or assignment necessary to effect a transfer of all rights therein to Agent) for application to the Obligations or, at Agent's option, Borrower shall pay to Agent the amount thereof on demand, to be so applied. Agent is irrevocably authorized to supply any required endorsement or assignment which is not given upon demand of Agent or which may have been omitted.

*[Signature pages to follow.]*



**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed and delivered as of the date first above written.

**BORROWER:**

**TRUEBLUE, INC.**,  
a Washington corporation

By: \_\_\_\_\_  
Name: Derrek Gafford  
Title: Executive Vice President  
and Chief Financial Officer

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[Term Loan Agreement]

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**AGENT AND LENDER:**

**SYNOVUS BANK,**  
as Agent and as a Lender

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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[Term Loan Agreement]

## SUBSIDIARIES OF TRUEBLUE, INC.

<b>CORPORATE NAME</b>	<b>Incorporated in State/Country of:</b>
CLP Holdings Corp	Nevada
CLP Resources, Inc.	Delaware
Labor Ready Northwest, Inc.	Washington
Labor Ready Southwest, Inc.	Washington
Labor Ready Central, Inc.	Washington
Labor Ready Midwest, Inc.	Washington
Labor Ready Mid-Atlantic, Inc.	Washington
Labor Ready Northeast, Inc.	Washington
Labor Ready Southeast, Inc.	Washington
Labour Ready Temporary Services, Ltd.	Canada
Spartan Staffing Puerto Rico, LLC	Puerto Rico
Labor Ready Holdings, Inc.	Nevada
PlaneTechs, LLC	Nevada
Spartan Staffing, LLC	Nevada
TrueBlue Enterprises, Inc.	Nevada
Centerline Drivers, LLC	Nevada
Worker's Assurance of Hawaii, Inc.	Hawaii

TrueBlue, Inc. has several additional subsidiaries not named above. The unnamed subsidiaries, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary at the end of the year covered by this report.

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in Registration Statement No. 333-182832 on Form S-3, and in Registration Statement Nos. 333-76420, 333-99049, 333-125206, 333-130685, 333-164614, and 333-167770 on Form S-8 of our reports dated February 21, 2013, relating to the consolidated financial statements and financial statement schedules of TrueBlue, Inc. and the effectiveness of TrueBlue, Inc.'s internal control over financial reporting, appearing in this Annual Report on Form 10-K of TrueBlue, Inc. for the year ended December 28, 2012.

/s/ Deloitte & Touche LLP

Seattle, Washington  
February 21, 2013

## CERTIFICATION

I, Steven C. Cooper, certify that:

1. I have reviewed this Annual Report on Form 10-K of TrueBlue, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 21, 2013

/s/ Steven C. Cooper

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Steven C. Cooper  
Chief Executive Officer  
(Principal Executive Officer)

## CERTIFICATION

I, Derrek L. Gafford, certify that:

1. I have reviewed this Annual Report on Form 10-K of TrueBlue, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 21, 2013

/s/ Derrek L. Gafford

Derrek L. Gafford

Chief Financial Officer (Principal Executive Officer)

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

We, Steven C. Cooper, the chief executive officer of TrueBlue, Inc. (the "Company"), and Derrek L. Gafford, the chief financial officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Annual Report of the Company on Form 10-K, for the fiscal period ended December 28, 2012 (the "Report"), fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

/s/ Steven C. Cooper

\_\_\_\_\_  
Steven C. Cooper  
Chief Executive Officer  
(Principal Executive Officer)

/s/ Derrek L. Gafford

\_\_\_\_\_  
Derrek L. Gafford  
Chief Financial Officer  
(Principal Financial Officer)

February 21, 2013

A signed original of this written statement required by Section 906 has been provided to TrueBlue, Inc. and will be retained by TrueBlue, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.