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**Section 1: 8-K (8-K)**

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

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**FORM 8-K**

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**CURRENT REPORT  
Pursuant to Section 13 or 15(d)  
of the Securities Exchange Act of 1934**

**Date of Report (Date of earliest event reported): December 24, 2018**

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**TechTarget, Inc.**

(Exact name of Registrant as Specified in Its Charter)

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**Delaware**  
(State or Other Jurisdiction  
of Incorporation)

**1-33472**  
(Commission  
File Number)

**04-3483216**  
(IRS Employer  
Identification No.)

**275 Grove Street,  
Newton, MA**  
(Address of Principal Executive Offices)

**02466**  
(Zip Code)

**Registrant's Telephone Number, Including Area Code: (617) 431-9200**  
(Former Name or Former Address, if Changed Since Last Report)

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Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instructions A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§ 240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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**Item 1.01 Entry into a Material Definitive Agreement.**

On December 24, 2018, TechTarget, Inc. (the “Company”) entered into a Loan and Security Agreement (the “Loan Agreement”) with Western Alliance Bank (“Western Alliance”) as the lender. The Loan Agreement provides for a \$25 million term loan facility with a maturity date of December 10, 2023 (the “Term Loan”).

The borrowings under the Term Loan are secured by a lien on substantially all of the assets of the Company, including a pledge of the stock of certain of its wholly-owned subsidiaries (limited, in the case of the stock of certain foreign subsidiaries of the Company, to no more than 65% of the capital stock of such subsidiaries). The Term Loan must be repaid quarterly, with applicable interest paid monthly, in the following manner: 1.25% of the initial aggregate borrowings are due and payable each quarter for the first two loan years, 1.88% of the initial aggregate borrowings are due and payable each quarter for the third loan year, and 2.50% of the initial aggregate borrowings are due and payable each quarter for the fourth and fifth loan years. At maturity, all outstanding amounts, including unpaid principal and accrued and unpaid interest, under the Loan Agreement will be due and payable. The borrowings are subject to a maximum leverage ratio, which may not be greater than 2.0 to 1.0, measured quarterly. The Loan Agreement also requires the Company to make representations and warranties and to comply with certain other covenants and agreements that are customary in loan agreements of this type.

The Term Loan will bear interest, on the outstanding daily balance thereof, at a floating per annum rate equal to one and three-eighths percent (1.375%) above the greater of (a) the one (1) month U.S. LIBOR rate reported in The Wall Street Journal as of such date or (b) two percent (2.00%).

The Loan Agreement requires the Company to pay a one-time non-refundable facility fee of approximately \$25,000 on the closing date. The Term Loan may be prepaid by the Company at its option without penalty, provided the Company delivers written notice of its election to prepay at least ten days prior to such prepayment and pays to Lender on such prepayment date an amount equal to the sum of the outstanding principal of the Term Loan, including accrued and unpaid interest thereon, plus all other outstanding amounts due and payable.

The Loan Agreement also contains customary events of default, subject to grace periods in certain cases, which may cause repayment of the Term Loan to be accelerated. Events of default which may cause repayment include: (1) failure to pay any obligation when due, (2) failure to comply with affirmative and negative covenants, (3) failure to perform any other obligation required under the Loan Agreement and to cure such default within 30 days after becoming aware of such failure, (4) the occurrence of a Material Adverse Effect (as defined in the Loan Agreement), (5) the attachment or seizure of a material portion of the Company’s assets if such attachment or seizure is not removed, discharged or rescinded within 10 days, (6) bankruptcy or insolvency of the Company, (7) default by the Company under any agreement (i) resulting in a right by a third party to accelerate indebtedness in an amount in excess of \$500,000 or (ii) that would reasonably be expected to have a Material Adverse Effect, (8) entry of a final, uninsured judgment or judgments against the Company for the payment of money in an amount, individually or in the aggregate, of at least \$500,000, or (9) any material misrepresentation or material misstatement with respect to any warranty or representation set forth in the Loan Agreement.

The description of the material terms of the Loan Agreement is qualified in its entirety by the Loan Agreement, which is filed as Exhibit 10.1 to this Current Report Form 8-K and is incorporated herein by reference.

**Item 1.02 Termination of a Material Definitive Agreement.**

The Company entered into a payoff letter dated as of December 24, 2018, with Silicon Valley Bank as Administrative Agent and Lead Arranger pursuant to which the Company terminated that certain Senior Secured Credit Facility Agreement, dated May 9, 2016, by and among the Company and its domestic subsidiaries, Silicon Valley Bank and the several lenders parties thereto (the “Credit Agreement”). In connection therewith, Silicon Valley Bank released its lien on substantially all of the assets of the Company. The Company repaid all amounts owed under the Credit Agreement of approximately \$22.58 million.

The foregoing description of the Credit Agreement is not complete and is qualified in its entirety by reference to the full text of the Credit Agreement, filed as Exhibit 10.1 to the Company’s Current Report on Form 8-K filed with the SEC on May 9, 2016, and incorporated herein by reference.

**Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.**

The information disclosed under Item 1.01 of this Current Report on Form 8-K is incorporated by reference under this Item 2.03.

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**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
10.1	<a href="#"><u>Loan and Security Agreement, dated December 24, 2018, by and between TechTarget, Inc., as Borrower, and Western Alliance Bank, as Lender</u></a>

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**SIGNATURE**

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

TechTarget, Inc.

Date: December 28, 2018

By: /s/ Daniel Noreck

Daniel Noreck

Chief Financial Officer and Treasurer

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## **Section 2: EX-10.1 (EX-10.1)**

**Exhibit 10.1**

**TECHTARGET, INC.**

**WESTERN ALLIANCE BANK, AN ARIZONA CORPORATION**

**LOAN AND SECURITY AGREEMENT**

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This **LOAN AND SECURITY AGREEMENT** is entered into as of December 24, 2018, by and between **WESTERN ALLIANCE BANK, an Arizona corporation** (“Bank”) and **TECHTARGET, INC., a Delaware corporation** (“Borrower”).

## RECITALS

Borrower wishes to obtain credit from Bank, and Bank desires to extend credit to Borrower. This Agreement sets forth the terms on which Bank will advance credit to Borrower, and Borrower will repay the amounts owing to Bank.

## AGREEMENT

The parties agree as follows:

### 1. DEFINITIONS AND CONSTRUCTION.

**1.1 Definitions.** As used in this Agreement, the following terms shall have the following definitions:

“Accounts” means all presently existing and hereafter arising accounts, contract rights, payment intangibles, and all other forms of obligations owing to Borrower arising out of the sale or lease of goods (including, without limitation, the licensing of software and other technology) or the rendering of services by Borrower, whether or not earned by performance, and any and all credit insurance, guaranties, and other security therefor, as well as all merchandise returned to or reclaimed by Borrower and Borrower’s Books relating to any of the foregoing.

“Affiliate” means, with respect to any Person, any Person that owns or controls directly or indirectly such Person, any Person that controls or is controlled by or is under common control with such Person, and each of such Person’s senior executive officers, directors, and partners.

“Bank Expenses” means all: reasonable costs or expenses (including reasonable attorneys’ fees and expenses) incurred in connection with the preparation, negotiation, administration, and enforcement of the Loan Documents; reasonable Collateral audit fees; and Bank’s reasonable attorneys’ fees and expenses incurred in amending, enforcing or defending the Loan Documents (including fees and expenses of appeal), incurred before, during and after an Insolvency Proceeding, whether or not suit is brought.

“Borrower’s Books” means all of Borrower’s books and records including: ledgers; records concerning Borrower’s assets or liabilities, the Collateral, business operations or financial condition; and all computer programs, or tape files, and the equipment, containing such information.

“Business Day” means any day that is not a Saturday, Sunday, or other day on which banks in the State of California are authorized or required to close.

“Change in Control” shall mean a transaction in which any “person” or “group” (within the meaning of Section 13(d) and 14(d)(2) of the Securities Exchange Act of 1934) becomes the “beneficial owner” (as defined in Rule 13d-3 under the Securities Exchange Act of 1934), directly or indirectly, of a sufficient number of shares of all classes of stock then outstanding of Borrower ordinarily entitled to vote in the election of directors, empowering such “person” or “group” to elect a majority of the Board of Directors of Borrower, who did not have such power before such transaction.

“Closing Date” means the date of this Agreement.

“Code” means the California Uniform Commercial Code, as amended from time to time.

“Collateral” means the property described on **Exhibit A** attached hereto.

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“Contingent Obligation” means, as applied to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to (i) any indebtedness, lease, dividend, letter of credit or other obligation of another; (ii) any obligations with respect to undrawn letters of credit, corporate credit cards, or merchant services issued or provided for the account of that Person; and (iii) all obligations arising under any agreement or arrangement designed to protect such Person against fluctuation in interest rates, currency exchange rates or commodity prices; provided, however, that the term “Contingent Obligation” shall not include endorsements for collection or deposit in the ordinary course of business. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determined amount of the primary obligation in respect of which such Contingent Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by Bank in good faith; provided, however, that such amount shall not in any event exceed the maximum amount of the obligations under the guarantee or other support arrangement.

“Copyrights” means any and all copyright rights, copyright applications, copyright registrations and like protections in each work or authorship and derivative work thereof.

“Credit Card Services” are any products, credit services and/or financial accommodations relating to credit cards and/or other cash management services previously, now, or hereafter provided to Borrower or any of its Subsidiaries by Bank or any Bank Affiliate.

“Credit Card Services Agreements” are any agreements, instruments or documents relating to Credit Card Services.

“Credit Extension” means the Term Loan, or any other extension of credit by Bank for the benefit of Borrower hereunder.

“Daily Balance” means the amount of the Obligations owed at the end of a given day.

“Domestic Subsidiary” means a Subsidiary organized under the laws of the United States or any state or territory thereof or the District of Columbia.

“EBITDA” means, for any period of determination, (a) Net Income, plus (b) Interest Expense, plus (c) to the extent deducted in the calculation of Net Income, depreciation expense, amortization expense and non-cash stock-based compensation, plus (d) income tax expense, plus (e) additional one-time addbacks approved by Bank in writing in its sole discretion, less (f) capital expenditures in excess of projected annual capital expenditures.

“Equipment” means all present and future machinery, equipment, tenant improvements, furniture, fixtures, vehicles, tools, parts and attachments in which Borrower has any interest.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and the regulations thereunder.

“Event of Default” has the meaning assigned in Article 8.

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

“GAAP” means generally accepted accounting principles as in effect from time to time.

“Governmental Authority” is any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization.

“Indebtedness” means (a) all indebtedness for borrowed money or the deferred purchase price of property or services, including without limitation reimbursement and other obligations with respect to surety bonds and letters of credit, (b) all obligations evidenced by notes, bonds, debentures or similar instruments, (c) all capital lease obligations (excluding obligations relating to ASC 842) and (d) all Contingent Obligations.

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“Insolvency Proceeding” means any proceeding commenced by or against any person or entity under any provision of the United States Bankruptcy Code, as amended, or under any other bankruptcy or insolvency law, including assignments for the benefit of creditors, formal or informal moratoria, compositions, extension generally with its creditors, or proceedings seeking reorganization, arrangement, or other relief.

“Intellectual Property Collateral” means all of Borrower’s right, title, and interest in and to the following: Copyrights, Trademarks and Patents; all trade secrets, all design rights, claims for damages by way of past, present and future infringement of any of the rights included above, all licenses or other rights to use any of the Copyrights, Patents or Trademarks, and all license fees and royalties arising from such use to the extent permitted by such license or rights; all amendments, renewals and extensions of any of the Copyrights, Trademarks or Patents; and all proceeds and products of the foregoing, including without limitation all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.

“Interest Expense” means for any fiscal period, interest expense (whether cash or non-cash) determined in accordance with GAAP for the relevant period ending on such date, including, in any event, interest expense with respect to any Credit Extension and other Indebtedness of Borrower and its Subsidiaries, including, without limitation or duplication, all commissions, discounts, or related amortization and other fees and charges with respect to letters of credit and bankers’ acceptance financing and the net costs associated with interest rate swap, cap, and similar arrangements, and the interest portion of any deferred payment obligation (including leases of all types).

“Inventory” means all inventory in which Borrower has or acquires any interest, including work in process and finished products intended for sale or lease or to be furnished under a contract of service, of every kind and description now or at any time hereafter owned by or in the custody or possession, actual or constructive, of Borrower, including such inventory as is temporarily out of its custody or possession or in transit and including any returns upon any accounts or other proceeds, including insurance proceeds, resulting from the sale or disposition of any of the foregoing and any documents of title representing any of the above, and Borrower’s Books relating to any of the foregoing.

“Investment” means any beneficial ownership of (including stock, partnership interest or other securities) any Person, or any loan, advance or capital contribution to any Person.

“Leverage Ratio” means, at any time of determination, the ratio of (a) the Obligations to (b) Borrower’s trailing twelve-month EBITDA.

“LIBOR Rate” means, as of any date of determination, the greater of (a) the one (1) month U.S. LIBOR rate reported in The Wall Street Journal as of such date or (b) two percent (2.00%).

“Lien” means any mortgage, lien, deed of trust, charge, pledge, security interest or other encumbrance.

“Loan Documents” means, collectively, this Agreement, any Credit Card Services Agreements, any subordination agreements, any pledge or security agreements, any notes or guaranties executed by Borrower or any other Person, and any other agreement, instrument or document entered into in connection with this Agreement, all as amended, restated, supplemented or otherwise modified or extended from time to time.

“Material Adverse Effect” means a material adverse effect on (i) the business operations, condition (financial or otherwise) or prospects of Borrower and its Subsidiaries taken as a whole or (ii) the ability of Borrower to repay the Obligations or otherwise perform its obligations under the Loan Documents or (iii) the value or priority of Bank’s security interests in the Collateral.

“Negotiable Collateral” means all letters of credit of which Borrower is a beneficiary, notes, drafts, instruments, securities, documents of title, and chattel paper, and Borrower’s Books relating to any of the foregoing.

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“Net Income” means, as calculated on a consolidated basis for Borrower and its Subsidiaries for any period as at any date of determination, the net profit (or loss), after provision for taxes, of Borrower and its Subsidiaries for such period taken as a single accounting period

“Obligations” means all debt, principal, interest, Bank Expenses and other amounts owed to Bank by Borrower pursuant to this Agreement, any Credit Card Services Agreement, or any other agreement, whether absolute or contingent, due or to become due, now existing or hereafter arising, including any interest that accrues after the commencement of an Insolvency Proceeding and including any debt, liability, or obligation owing from Borrower to others that Bank may have obtained by assignment or otherwise.

“Patents” means all patents, patent applications and like protections including without limitation improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same.

“Payment Date” means the tenth (10th) calendar day of (a) the third month of each calendar quarter, with respect to principal and (b) each month, with respect to interest.

“Perfection Certificate” has the meaning assigned in Section 3.1.

“Periodic Payments” means all installments or similar recurring payments that Borrower may now or hereafter become obligated to pay to Bank pursuant to the terms and provisions of any instrument, or agreement now or hereafter in existence between Borrower and Bank.

“Permitted Indebtedness” means:

(a) Indebtedness of Borrower in favor of Bank arising under this Agreement or any other Loan Document;

(b) Indebtedness existing on the Closing Date and disclosed in the Schedule;

(c) Indebtedness secured by a lien described in clause (c) of the defined term “Permitted Liens,” provided (i) such Indebtedness does not exceed the lesser of the cost or fair market value of the equipment financed with such Indebtedness and (ii) such Indebtedness does not exceed Seven Hundred Fifty Thousand Dollars (\$750,000) in the aggregate at any given time (excluding Indebtedness permitted under clause (e) below), which limit shall include any Indebtedness existing as of the Closing Date;

(d) Subordinated Debt;

(e) Indebtedness incurred under Borrower’s unsecured American Express corporate credit card program that does not exceed Five Hundred Thousand Dollars (\$500,000) in the aggregate principal amount;

(f) Indebtedness owing by a Subsidiary to a Borrower that constitutes Permitted Investments under clause (c) of such defined term;

(g) obligations arising out of interest rate, foreign currency, and commodity hedging agreements entered into with financial institutions as permitted in Section 6.7 in connection with bona fide hedging activities in the ordinary course of business and not for speculative purposes;

(h) endorsement of items for deposit or collection of commercial paper received in the ordinary course of business;

(i) Indebtedness owed to any Person providing workers’ compensation, health, disability or other employee benefits (including contractual and statutory benefits) or property, casualty, liability or credit insurance, pursuant to reimbursement or indemnification obligations to such Person, in each case incurred in the ordinary course of business;

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(j) Indebtedness in respect of bids, trade contracts (other than for debt for borrowed money), leases (other than capital lease obligations), statutory obligations, surety, stay, customs and appeal bonds, performance, performance and completion and return of money bonds, government contracts and similar obligations, in each case, provided in the ordinary course of business;

(k) Indebtedness in respect of netting services, overdraft protection and similar arrangements, in each case, in connection with cash management and deposit accounts permitted in Section 6.7; and

(l) Indebtedness representing reasonable and customary deferred compensation to directors, officers, and employees incurred in the ordinary course of business.

“Permitted Investment” means:

(a) Investments existing on the Closing Date disclosed in the Schedule;

(b) (i) marketable direct obligations issued or unconditionally guaranteed by the United States of America or any agency or any State thereof maturing within one (1) year from the date of acquisition thereof, (ii) commercial paper maturing no more than one (1) year from the date of creation thereof and currently having rating of at least A-2 or P-2 from either Standard & Poor’s Corporation or Moody’s Investors Service, (iii) certificates of deposit maturing no more than one (1) year from the date of investment therein issued by Bank and (iv) Bank’s money market accounts;

(c) Any intercompany services agreement or Investments of Borrower in any Subsidiary in an aggregate amount not to exceed Five Hundred Thousand Dollars (\$500,000) outstanding at any time;

(d) Repurchases of common stock of Borrower under the terms of customary board-approved stock repurchase agreements to the extent permitted under Section 7.6;

(e) Investments not to exceed Two Hundred Fifty Thousand Dollars (\$250,000) in the aggregate in any fiscal year consisting of travel advances and employee relocation loans and other employee loans and advances in the ordinary course of business;

(f) Deposit and securities accounts maintained with banks and other financial institutions disclosed in the Schedule or to the extent expressly permitted under Section 6.7; and

(g) Investments consisting of notes receivable of, or prepaid royalties and other credit extensions, to customers and suppliers who are not Affiliates, in the ordinary course of business, provided that this subparagraph (g) shall not apply to Investments of Borrower in any Subsidiary.

“Permitted Liens” means the following:

(a) Any Liens existing on the Closing Date and disclosed in the Schedule or arising under this Agreement or the other Loan Documents;

(b) Liens for taxes, fees, assessments or other governmental charges or levies, either not delinquent or being contested in good faith by appropriate proceedings, provided the same have no priority over any of Bank’s security interests;

(c) Liens (i) upon or in any equipment which was not financed by Bank acquired or held by Borrower or any of its Subsidiaries to secure the purchase price of such equipment or indebtedness incurred solely for the purpose of financing the acquisition of such equipment, or (ii) existing on such equipment at the time of its acquisition, provided that the Lien is confined solely to the property so acquired and improvements thereon, and the proceeds of such equipment;

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(d) Liens incurred in connection with the extension, renewal or refinancing of the indebtedness secured by Liens of the type described in clauses (a) through (c) above, provided that any extension, renewal or replacement Lien shall be limited to the property encumbered by the existing Lien and the principal amount of the indebtedness being extended, renewed or refinanced does not increase;

(e) Liens incurred in the ordinary course of business to secure payment of workers' compensation, employment insurance, old-age pensions, social security and other like obligations (other than Liens imposed by ERISA);

(f) Liens consisting of non-exclusive licenses for the use of intellectual property including Patents, Trademarks or Copyrights of Borrower or its Subsidiaries in the ordinary course of business; and

(g) Liens arising from judgments, decrees or attachments in circumstances not constituting an Event of Default under Sections 8.4 or 8.7.

"Person" means any individual, sole proprietorship, partnership, limited liability company, joint venture, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or governmental agency.

"Responsible Officer" means each of the Chief Executive Officer, the Chief Operating Officer, the Chief Financial Officer and the Controller of Borrower.

"Schedule" means the schedule of exceptions attached hereto and approved by Bank, if any.

"Subordinated Debt" means any debt incurred by Borrower that is subordinated to the debt owing by Borrower to Bank on terms acceptable to Bank (and identified as being such by Borrower and Bank).

"Subsidiary" means any corporation, company or partnership in which (i) any general partnership interest or (ii) more than fifty percent (50%) of the stock or other units of ownership which by the terms thereof has the ordinary voting power to elect the Board of Directors, managers or trustees of the entity, at the time as of which any determination is being made, is owned by Borrower, either directly or through an Affiliate.

"Tangible Net Worth" means at any date as of which the amount thereof shall be determined, the sum of the capital stock and additional paid-in capital plus retained earnings (or minus accumulated deficit) of Borrower and its Subsidiaries minus intangible assets, plus Subordinated Debt, on a consolidated basis determined in accordance with GAAP.

"Term Loan Amount" means Twenty-Five Million Dollars (\$25,000,000).

"Term Loan Maturity Date" means December 10, 2023.

"Total Liabilities" means at any date as of which the amount thereof shall be determined, all obligations that should, in accordance with GAAP be classified as liabilities on the consolidated balance sheet of Borrower, including in any event all Indebtedness.

"Trademarks" means any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Borrower connected with and symbolized by such trademarks.

**1.2 Accounting Terms.** All accounting terms not specifically defined herein shall be construed in accordance with GAAP and all calculations made hereunder shall be made in accordance with GAAP. When used herein, the terms "financial statements" shall include the notes and schedules thereto.

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## 2. LOAN AND TERMS OF PAYMENT.

### 2.1 Credit Extensions.

Borrower promises to pay to the order of Bank, in lawful money of the United States of America, the aggregate unpaid principal amount of all Credit Extensions made by Bank to Borrower hereunder. Borrower shall also pay interest on the unpaid principal amount of such Credit Extensions at rates in accordance with the terms hereof.

### 2.2 Term Loan.

(a) **Availability.** Subject to and upon the terms and conditions of this Agreement, Bank shall make one (1) term loan (the "Term Loan") to Borrower on or about the Closing Date in an amount equal to the Term Loan Amount.

(b) **Repayment.** Commencing on the first Payment Date occurring after the Closing Date, and continuing on each Payment Date thereafter, Borrower shall make consecutive quarterly payments of principal, and monthly payments of applicable interest, in arrears, as calculated by Bank (which calculations shall be deemed correct absent manifest error) based upon the following schedule:

YEAR	PAYMENT DATE	PRINCIPAL PAYMENT AMOUNT
	March 10, 2019	\$312,500
1	June 10, 2019	\$312,500
	September 10, 2019	\$312,500
	December 10, 2019	\$312,500
	March 10, 2020	\$312,500
2	June 10, 2020	\$312,500
	September 10, 2020	\$312,500
	December 10, 2020	\$312,500
	March 10, 2021	\$468,750
3	June 10, 2021	\$468,750
	September 10, 2021	\$468,750
	December 10, 2021	\$468,750
	March 10, 2022	\$625,000
4	June 10, 2022	\$625,000
	September 10, 2022	\$625,000
	December 10, 2022	\$625,000
	March 10, 2023	\$625,000
5	June 10, 2023	\$625,000
	September 10, 2023	\$625,000
	Term Loan Maturity Date	All remaining unpaid principal

All unpaid principal and accrued and unpaid interest with respect to the Term Loan is due and payable in full on the Term Loan Maturity Date. The Term Loan may only be prepaid in accordance with Sections 2.2(c) and 2.2(d).

(c) **Mandatory Prepayments.** If the Term Loan is accelerated following the occurrence of an Event of Default, Borrower shall immediately pay to Bank an amount equal to the sum of: (i) the outstanding principal of the Term Loan plus accrued and unpaid interest thereon through the prepayment date, plus (ii) all other Obligations that are due and payable, including Bank Expenses and interest at the Default Rate with respect to any past due amounts.

(d) **Permitted Prepayment of Term Loan.** Borrower shall have the option to prepay the Term Loan in full provided Borrower (i) provides written notice to Bank of its election to prepay the Term Loan at least ten (10) days prior to such prepayment, and (ii) pays to Bank on the date of such prepayment an

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amount equal to the sum of (A) the outstanding principal of the Term Loan, plus accrued and unpaid interest thereon through the prepayment date, plus (B) all other Obligations that are due and payable, including Bank Expenses and interest at the Default Rate with respect to any past due amounts.

### 2.3 Interest Rates, Payments, and Calculations.

(a) **Interest Rate.** Except as set forth in Section 2.3(b), the Term Loan shall bear interest, on the outstanding Daily Balance thereof, at a floating per annum rate equal to one and three-eighths percent (1.375%) above the LIBOR Rate.

(b) **Late Fee; Default Rate.** If any payment is not made within ten (10) days after the date such payment is due, Borrower shall pay Bank a late fee equal to the lesser of (i) five percent (5%) of the amount of such unpaid amount or (ii) the maximum amount permitted to be charged under applicable law, not in any case to be less than Twenty-Five Dollars (\$25). All Obligations shall bear interest, from and after the occurrence and during the continuance of an Event of Default, at a rate (the "Default Rate") equal to five (5) percentage points above the interest rate applicable immediately prior to the occurrence of the Event of Default.

(c) **Payments.** Interest hereunder shall be due and payable in accordance with Section 2.2(b) hereof. Bank shall, at its option, charge such interest, all Bank Expenses, and all Periodic Payments against any of Borrower's deposit accounts. Any interest not paid when due shall be compounded by becoming a part of the Obligations, and such interest shall thereafter accrue interest at the rate then applicable hereunder. All payments shall be free and clear of any taxes, withholdings, duties, impositions or other charges, to the end that Bank will receive the entire amount of any Obligations payable hereunder, regardless of source of payment. All payments may be auto-debited from Borrower's account with Bank.

(d) **Computation.** In the event the LIBOR Rate is changed from time to time hereafter, the applicable rate of interest hereunder shall be increased or decreased, effective monthly on the tenth (10th) day of each month, by an amount equal to such change in the LIBOR Rate as in effect on the immediately preceding Business Day. All interest chargeable under the Loan Documents shall be computed on the basis of a three hundred sixty (360) day year for the actual number of days elapsed.

**2.4 Crediting Payments.** Prior to the occurrence of an Event of Default, Bank shall credit a wire transfer of funds, check or other item of payment to such deposit account or Obligation as Borrower specifies. After the occurrence of an Event of Default, the receipt by Bank of any wire transfer of funds, check, or other item of payment shall be immediately applied to conditionally reduce Obligations, but shall not be considered a payment on account unless such payment is of immediately available federal funds or unless and until such check or other item of payment is honored when presented for payment. Notwithstanding anything to the contrary contained herein, any wire transfer or payment received by Bank after 12:00 noon Pacific time shall be deemed to have been received by Bank as of the opening of business on the immediately following Business Day. Whenever any payment to Bank under the Loan Documents would otherwise be due (except by reason of acceleration) on a date that is not a Business Day, such payment shall instead be due on the next Business Day, and additional fees or interest, as the case may be, shall accrue and be payable for the period of such extension.

### 2.5 Fees. Borrower shall pay to Bank the following:

(a) **Facility Fee.** On the Closing Date, a Facility Fee equal to Twenty-Five Thousand Dollars (\$25,000), which shall be nonrefundable; and

(b) **Bank Expenses.** On the Closing Date, all Bank Expenses incurred through the Closing Date, including reasonable attorneys' fees and expenses and, after the Closing Date, all Bank Expenses, including reasonable attorneys' fees and expenses, as and when they are incurred by Bank.

**2.6 Term.** This Agreement shall become effective on the Closing Date and, subject to Section 13.7, shall continue in full force and effect for so long as any Obligations remain outstanding or Bank has any obligation to make Credit Extensions under this Agreement. Notwithstanding the foregoing, Bank shall have the

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right to terminate its obligation to make Credit Extensions under this Agreement immediately and without notice upon the occurrence and during the continuance of an Event of Default. Notwithstanding termination, Bank's Lien on the Collateral shall remain in effect for so long as any Obligations are outstanding.

### 3. CONDITIONS OF LOANS.

**3.1 Conditions Precedent to Initial Credit Extension.** The obligation of Bank to make the initial Credit Extension is subject to the condition precedent that Bank shall have received, in form and substance satisfactory to Bank, the following:

- (a) this Agreement;
- (b) a certificate of the Secretary of Borrower with respect to incumbency and resolutions authorizing the execution and delivery of this Agreement;
- (c) UCC National Form Financing Statement;
- (d) a completed perfection certificate of Borrower (the "Perfection Certificate");
- (e) an intellectual property security agreement;
- (f) good standing certificate from the Borrower's state of incorporation;
- (g) certificate of insurance;
- (h) payment of the fees and Bank Expenses then due specified in Section 2.5 hereof;
- (i) current financial statements of Borrower;
- (j) a duly executed legal opinion of counsel to Borrower dated as of the Closing Date; and
- (k) such other documents, and completion of such other matters, as Bank may reasonably deem necessary or appropriate.

**3.2 Conditions Precedent to all Credit Extensions.** The obligation of Bank to make each Credit Extension, including the initial Credit Extension, is further subject to the following condition: the representations and warranties contained in Section 5 shall be true and correct in all material respects on and as of the effective date of the Credit Extension as though made at and as of each such date, and no Event of Default shall have occurred and be continuing, or would exist after giving effect to such Credit Extension. The making of each Credit Extension shall be deemed to be a representation and warranty by Borrower on the date of such Credit Extension as to the accuracy of the facts referred to in this Section 3.2.

**3.3 Post-Closing Deliverables.** Borrower agrees to use its best efforts to obtain and deliver to Bank, within thirty (30) days following the Closing Date, a landlord agreement in form and substance reasonably satisfactory to Bank with respect to each of Borrower's leased locations in the United States.

### 4. CREATION OF SECURITY INTEREST.

**4.1 Grant of Security Interest.** Borrower grants and pledges to Bank a continuing security interest in all presently existing and hereafter acquired or arising Collateral in order to secure prompt repayment of any and all Obligations and in order to secure prompt performance by Borrower of each of its covenants and duties under the Loan Documents. Except as set forth in the Schedule, such security interest constitutes a valid, first priority security interest in the presently existing Collateral, and will constitute a valid, first priority security interest in Collateral acquired after the date hereof. Notwithstanding the foregoing, (i) the security interest granted herein

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shall not apply to the stock of any Foreign Subsidiary to the extent the pledge of such capital stock of such Subsidiary as Collateral would, in the reasonable judgment of the Borrower, result in a material adverse tax consequence to the Borrower and (ii) no Foreign Subsidiary shall be required to guaranty the Obligations if the guaranteeing by such Subsidiary of the Obligations would, in the reasonable judgment of the Borrower, result in a material adverse tax consequence to the Borrower.

**4.2 Delivery of Additional Documentation Required.** Borrower shall from time to time execute and deliver to Bank, at the request of Bank, all Negotiable Collateral, all financing statements and other documents that Bank may reasonably request, in form satisfactory to Bank, to perfect and continue the perfection of Bank's security interests in the Collateral and in order to fully consummate all of the transactions contemplated under the Loan Documents. Borrower from time to time may deposit with Bank specific time deposit accounts to secure specific Obligations. Borrower authorizes Bank to hold such balances in pledge and to decline to honor any drafts thereon or any request by Borrower or any other Person to pay or otherwise transfer any part of such balances for so long as the Obligations are outstanding.

**4.3 Right to Inspect.** Bank (through any of its officers, employees, or agents) shall have the right, upon reasonable prior notice, from time to time during Borrower's usual business hours but no more than once a year (unless an Event of Default has occurred and is continuing), to inspect Borrower's Books and to make copies thereof and to check, test, and appraise the Collateral in order to verify Borrower's financial condition or the amount, condition of, or any other matter relating to, the Collateral.

## **5. REPRESENTATIONS AND WARRANTIES.**

Borrower represents and warrants as follows:

**5.1 Due Organization and Qualification.** Borrower and each Subsidiary is a corporation duly existing and in good standing under the laws of its jurisdiction of incorporation and qualified and licensed to do business in any jurisdiction in which the conduct of its business or its ownership of property requires that it be so qualified.

**5.2 Due Authorization; No Conflict.** The execution, delivery, and performance of the Loan Documents are within Borrower's powers, have been duly authorized, and are not in conflict with nor constitute a breach of any provision contained in Borrower's Certificate of Incorporation or Bylaws, nor will they constitute an event of default under any material agreement to which Borrower is a party or by which Borrower is bound, nor will they contravene, conflict with or violate any applicable order, writ, judgment, injunction, decree, determination or award of any Governmental Authority by which Borrower or any of Borrower's property or assets may be bound or affected. Borrower is not in default under any agreement to which it is a party or by which it is bound which default could reasonably be expected to have a Material Adverse Effect.

**5.3 No Prior Encumbrances.** Borrower has good and marketable title to its property, free and clear of Liens, except for Permitted Liens.

**5.4 Bona Fide Accounts.** The Accounts are bona fide existing obligations. The property and services giving rise to such Accounts has been delivered or rendered to the account debtor or to the account debtor's agent for immediate and unconditional acceptance by the account debtor. Borrower has not received notice of any actual or imminent Insolvency Proceeding of any account debtor.

**5.5 Merchantable Inventory.** To the extent Borrower has Inventory, all such Inventory is in all material respects of good and marketable quality, free from all material defects, except for Inventory for which adequate reserves have been made.

**5.6 Intellectual Property Collateral.** Borrower is the sole owner of the Intellectual Property Collateral, except for non-exclusive licenses granted by Borrower to its customers in the ordinary course of business. Each of the Patents is valid and enforceable, and no part of the Intellectual Property Collateral has been judged invalid or unenforceable, in whole or in part, and no claim has been made that any part of the Intellectual

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Property Collateral violates the rights of any third party. Except as set forth in the Schedule, Borrower's rights as a licensee of intellectual property do not give rise to more than five percent (5%) of its gross revenue in any given month, including without limitation revenue derived from the sale, licensing, rendering or disposition of any product or service. Except as set forth in the Schedule, Borrower is not a party to, or bound by, any agreement (i) that restricts the grant by Borrower of a security interest in Borrower's rights under such agreement or any other property or (ii) for which a default under or termination of could interfere with Bank's right to sell any Collateral. Borrower shall provide written notice to Bank within ten (10) days of Borrower or any of its Subsidiaries entering into or becoming bound by any material license or agreement with respect to which Borrower or any Subsidiary is the licensee (other than over-the-counter software that is commercially available to the public). Except as disclosed on the Schedule, Borrower is not a party to, nor is bound by, any inbound license or other agreement, the failure, breach, or termination of which could reasonably be expected to cause a Material Adverse Effect, or that prohibits or otherwise restricts Borrower from granting a security interest in Borrower's interest in such license or agreement or any other property.

**5.7 Name; Location of Chief Executive Office.** Except as disclosed in the Schedule, Borrower has not done business under any name other than that specified on the signature page hereof. The chief executive office of Borrower is located at the address indicated in Section 10 hereof. All Borrower's Inventory (if any) and Equipment is located only at the location set forth in Section 10 hereof or as disclosed in writing to Bank.

**5.8 Litigation.** Except as set forth in the Schedule, there are no actions or proceedings pending by or against Borrower or any Subsidiary before any court or administrative agency in which an adverse decision could have a Material Adverse Effect, or a material adverse effect on Borrower's interest or Bank's security interest in the Collateral.

**5.9 No Material Adverse Change in Financial Statements.** All consolidated and consolidating financial statements related to Borrower and any Subsidiary that Bank has received from Borrower fairly present in all material respects Borrower's financial condition as of the date thereof and Borrower's consolidated and consolidating results of operations for the period then ended. There has not been a material adverse change in the consolidated or the consolidating financial condition of Borrower since the date of the most recent of such financial statements submitted to Bank.

**5.10 Solvency, Payment of Debts.** Borrower is solvent and able to pay its debts (including trade debts) as they mature.

**5.11 Regulatory Compliance.** Borrower and each Subsidiary have met the minimum funding requirements of ERISA with respect to any employee benefit plans subject to ERISA, and no event has occurred resulting from Borrower's failure to comply with ERISA that could result in Borrower's incurring any material liability. Borrower is not an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940. Borrower is not engaged principally, or as one of the important activities, in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulations T and U of the Board of Governors of the Federal Reserve System). Borrower has complied with all the provisions of the Federal Fair Labor Standards Act. Borrower has not violated any statutes, laws, ordinances or rules applicable to it, violation of which could have a Material Adverse Effect.

**5.12 Environmental Condition.** Except as disclosed in the Schedule, none of Borrower's or any Subsidiary's properties or assets has ever been used by Borrower or any Subsidiary or, to the best of Borrower's knowledge, by previous owners or operators, in the disposal of, or to produce, store, handle, treat, release, or transport, any hazardous waste or hazardous substance other than in accordance with applicable law; to the best of Borrower's knowledge, none of Borrower's properties or assets has ever been designated or identified in any manner pursuant to any environmental protection statute as a hazardous waste or hazardous substance disposal site, or a candidate for closure pursuant to any environmental protection statute; no lien arising under any environmental protection statute has attached to any revenues or to any real or personal property owned by Borrower or any Subsidiary; and neither Borrower nor any Subsidiary has received a summons, citation, notice, or directive from the Environmental Protection Agency or any other federal, state or other governmental agency concerning any action or omission by Borrower or any Subsidiary resulting in the releasing, or otherwise disposing of hazardous waste or hazardous substances into the environment.

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**5.13 Taxes.** Borrower and each Subsidiary have filed or caused to be filed all tax returns required to be filed, and have paid, or have made adequate provision for the payment of, all taxes reflected therein.

**5.14 Subsidiaries.** Borrower does not own any stock, partnership interest or other equity securities of any Person, except for Permitted Investments.

**5.15 Government Consents.** Borrower and each Subsidiary have obtained all material consents, approvals and authorizations of, made all declarations or filings with, and given all notices to, all Governmental Authorities that are necessary for the continued operation of Borrower's business as currently conducted.

**5.16 Accounts.** None of Borrower's nor any Subsidiary's property is maintained or invested with a Person other than Bank except as otherwise provided in this Agreement or agreed to by the Parties in writing.

**5.17 Full Disclosure.** No representation, warranty or other statement made by Borrower in any certificate or written statement furnished to Bank contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained in such certificates or statements not misleading.

## **6. AFFIRMATIVE COVENANTS.**

Borrower shall do all of the following:

**6.1 Good Standing.** Borrower shall maintain its and each of its Subsidiaries' corporate existence and good standing in its jurisdiction of incorporation and maintain qualification in each jurisdiction in which it is required under applicable law in which the failure to so qualify could reasonably be expected to have a Material Adverse Effect. Borrower shall maintain, and shall cause each of its Subsidiaries to maintain, in force all licenses, approvals and agreements, the loss of which could have a Material Adverse Effect.

**6.2 Government Compliance.** Borrower shall meet, and shall cause each Subsidiary to meet, the minimum funding requirements of ERISA with respect to any employee benefit plans subject to ERISA. Borrower shall comply, and shall cause each Subsidiary to comply, with all statutes, laws, ordinances and government rules and regulations to which it is subject, noncompliance with which could have a Material Adverse Effect.

**6.3 Financial Statements, Reports, Certificates.** Borrower shall deliver the following to Bank: (a) as soon as available, but in any event within forty-five (45) days after the end of each calendar quarter, a company prepared consolidated balance sheet, income statement, and cash flow statement covering Borrower's consolidated operations during such period, prepared in accordance with GAAP, consistently applied, in a form acceptable to Bank and certified by a Responsible Officer; (b) as soon as available, but in any event within ninety (90) days after the end of Borrower's fiscal year, audited consolidated financial statements of Borrower prepared in accordance with GAAP, consistently applied, together with an unqualified opinion on such financial statements of an independent registered public accounting firm reasonably acceptable to Bank; (c) copies of all statements, reports and notices sent or made available generally by Borrower to its security holders or to any holders of Subordinated Debt and, if applicable, all reports on Forms 10-K and 10-Q filed with the Securities and Exchange Commission; (d) promptly upon receipt of notice thereof, a report of any legal actions pending or threatened against Borrower or any Subsidiary that could result in damages or costs to Borrower or any Subsidiary of Five Hundred Thousand Dollars (\$500,000) or more; (e) within thirty (30) days after earlier of the end of Borrower's fiscal year or approval by Borrower's Board of Directors, a board-approved annual operating budget; and (f) such budgets, sales projections, operating plans or other financial information as Bank may reasonably request from time to time.

Within forty-five (45) days after the last day of each calendar quarter, Borrower shall deliver to Bank aged listings of accounts receivable and accounts payable.

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Borrower shall deliver to Bank with the quarterly financial statements a Compliance Certificate signed by a Responsible Officer in substantially the form of **Exhibit B** hereto.

Bank shall have a right from time to time hereafter to audit Borrower's Accounts and appraise Collateral at Borrower's expense, provided that such audits will be conducted no more often than every twelve (12) months unless an Event of Default has occurred and is continuing.

**6.4 Inventory; Returns.** Borrower shall keep all Inventory (if any) in good and marketable condition, free from all material defects except for Inventory for which adequate reserves have been made. Returns and allowances, if any, as between Borrower and its account debtors shall be on the same basis and in accordance with the usual customary practices of Borrower, as they exist at the time of the execution and delivery of this Agreement. Borrower shall promptly notify Bank of all returns and recoveries and of all disputes and claims, where the return, recovery, dispute or claim involves more than Five Hundred Thousand Dollars (\$500,000).

**6.5 Taxes.** Borrower shall make, and shall cause each Subsidiary to make, due and timely payment or deposit of all material federal, state, and local taxes, assessments, or contributions required of it by law, and will execute and deliver to Bank, on demand, appropriate certificates attesting to the payment or deposit thereof; and Borrower will make, and will cause each Subsidiary to make, timely payment or deposit of all material tax payments and withholding taxes required of it by applicable laws, including, but not limited to, those laws concerning F.I.C.A., F.U.T.A., state disability, and local, state, and federal income taxes, and will, upon request, furnish Bank with proof satisfactory to Bank indicating that Borrower or a Subsidiary has made such payments or deposits; provided that Borrower or a Subsidiary need not make any payment if the amount or validity of such payment is contested in good faith by appropriate proceedings and is reserved against (to the extent required by GAAP) by Borrower.

**6.6 Insurance.**

(a) Borrower, at its expense, shall keep the Collateral insured against loss or damage by fire, theft, explosion, sprinklers, and all other hazards and risks, and in such amounts, as ordinarily insured against by other owners in similar businesses conducted in the locations where Borrower's business is conducted on the date hereof. Borrower shall also maintain insurance relating to Borrower's business, ownership and use of the Collateral in amounts and of a type that are customary to businesses similar to Borrower's.

(b) All such policies of insurance shall be in such form, with such financially sound and reputable companies, and in such amounts as are usually insured against in the same general area by companies engaged in the same or a similar business. All such policies of property insurance shall contain a lender's loss payable endorsement, in a form reasonably satisfactory to Bank, showing Bank as a lender loss payee thereof, and all liability insurance policies shall show Bank as an additional insured and shall specify that the insurer must give at least thirty (30) days' notice to Bank before canceling its policy for any reason. Upon Bank's request, Borrower shall deliver to Bank certified copies of such policies of insurance and evidence of the payments of all premiums therefor. All proceeds payable under any such policy shall, at the option of Bank, be payable to Bank to be applied on account of the Obligations. Notwithstanding the foregoing, (a) so long as no Event of Default has occurred and is continuing, Borrower shall have the option of applying the proceeds of any casualty policy for all covered losses, toward the replacement or repair of destroyed or damaged property; provided that any such replaced or repaired property (i) shall be of equal or like value as the replaced or repaired Collateral and (ii) shall be deemed Collateral in which Bank has been granted a first priority security interest, and (b) after the occurrence and during the continuance of an Event of Default, all proceeds payable under such casualty policy shall, at the option of Bank, be payable to Bank on account of the Obligations

**6.7 Accounts.**

(a) Borrower shall (i) maintain and shall cause each of its Subsidiaries to maintain all depository, operating, and investment accounts with Bank and (ii) endeavor to utilize and shall cause each of its Subsidiaries to endeavor to utilize Bank's International Banking Division for any international banking services required by Borrower, including, but not limited to, foreign currency wires, hedges, swaps, foreign exchange contracts, and letters of credit; provided that to the extent that Bank is unable to provide domestic treasury management or

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depository services needed by Borrower or is required to use investment accounts with third parties for purposes of, among other things, stock repurchase programs, then Borrower shall be permitted to maintain such treasury management, depository services and/or investment accounts outside of Bank; provided further that any such accounts shall be made subject to blocked account control agreements, where applicable, in favor of Bank, in form and substance reasonably satisfactory to Bank, within forty-five (45) days following the Closing Date. Notwithstanding the foregoing, Borrower shall be permitted to maintain deposit accounts with financial institutions outside the United States so long as the aggregate balances held in such accounts does not exceed One Million Five Hundred Thousand Dollars (\$1,500,000) at any time.

(b) In addition to and without limiting the restrictions in (a), Borrower shall provide Bank five (5) days prior written notice before establishing any deposit, operating or investment account at or with any bank or financial institution other than Bank. For each such domestic account that Borrower at any time maintains, Borrower shall cause the applicable bank or financial institution (other than Bank) at or with which any such account is maintained to execute and deliver a control agreement or other appropriate instrument with respect to such account to perfect Bank's Lien in such account in accordance with the terms hereunder, and such control agreement may not be terminated without the prior written consent of Bank.

**6.8 Maximum Leverage Ratio.** Borrower shall maintain a Leverage Ratio of not more than 2.00 to 1.00, measured quarterly.

**6.9 Intellectual Property Rights.**

(a) Borrower shall promptly give Bank written notice of any applications or registrations of intellectual property rights material to Borrower's business filed by Borrower with the United States Patent and Trademark Office, including the date of such filing and the registration or application numbers, if any. Borrower shall (i) give Bank not less than 30 days prior written notice of the filing of any applications or registrations with the United States Copyright Office, including the title of such intellectual property rights to be registered, as such title will appear on such applications or registrations, and the date such applications or registrations will be filed, and (ii) prior to the filing of any such applications or registrations, shall execute such documents as Bank may reasonably request for Bank to maintain its perfection in such intellectual property rights to be registered by Borrower, and upon the request of Bank, shall file such documents simultaneously with the filing of any such applications or registrations. Upon filing any such applications or registrations with the United States Copyright Office, Borrower shall promptly provide Bank with (x) a copy of such applications or registrations, without the exhibits, if any, thereto, (y) evidence of the filing of any documents requested by Bank to be filed for Bank to maintain the perfection and priority of its security interest in such intellectual property rights, and (z) the date of such filing.

(b) Bank may audit Borrower's Intellectual Property Collateral to confirm compliance with this Section, provided such audit may not occur more often than once per year, unless an Event of Default has occurred and is continuing. Bank shall have the right, but not the obligation, to take, at Borrower's sole expense, any actions that Borrower is required under this Section to take but which Borrower fails to take, after 15 days' written notice to Borrower. Borrower shall reimburse and indemnify Bank for all reasonable costs and reasonable expenses incurred in the reasonable exercise of its rights under this Section.

**6.10 Creation/Acquisition of Subsidiaries.** In the event any Borrower or any Subsidiary of any Borrower creates or acquires any Subsidiary, Borrower or such Subsidiary shall promptly notify Bank of such creation or acquisition, and Borrower or such Subsidiary shall take all actions reasonably requested by Bank to achieve any of the following with respect to such "New Subsidiary" (defined as a Subsidiary formed after the date hereof during the term of this Agreement): (i) if such New Subsidiary is a Domestic Subsidiary, to cause such New Subsidiary to become either a co-Borrower hereunder or a secured guarantor with respect to the Obligations; and (ii) to grant and pledge to Bank a perfected security interest in all of the stock, units or other evidence of ownership held by Borrower or its Subsidiaries of any such New Subsidiary; provided that in the case of any Foreign Subsidiary, such pledge shall not be required to include any stock, units or other evidence of ownership in excess of 65% of the then-presently existing and thereafter arising issued and outstanding shares of capital stock, units or other evidence of ownership which entitle the holder thereof to vote for directors or any other matter.

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**6.11 Further Assurances.** At any time and from time to time Borrower shall execute and deliver such further instruments and take such further action as may reasonably be requested by Bank to effect the purposes of this Agreement.

**7. NEGATIVE COVENANTS.**

Borrower will not do any of the following:

**7.1 Dispositions.** Convey, sell, lease, transfer or otherwise dispose of (collectively, a “Transfer”), or permit any of its Subsidiaries to Transfer, all or any part of its business or property, other than: (i) Transfers of Inventory in the ordinary course of business; (ii) Transfers of non-exclusive licenses and similar arrangements for the use of the property of Borrower or its Subsidiaries in the ordinary course of business; (iii) Transfers of worn-out or obsolete Equipment which was not financed by Bank; or (iv) Transfers of any cash or any other property to its Subsidiaries (inclusive of all Permitted Investments under clause (c) of such defined term) so long as no Event of Default shall have occurred and be continuing immediately before and after giving effect thereto, to fund the ordinary course operating activities of such Subsidiary consistent with past practice.

**7.2 Change in Business, Change in Control or Executive Office.** Engage in any business, or permit any of its Subsidiaries to engage in any business, other than the businesses currently engaged in by Borrower and any business substantially similar or related thereto (or incidental thereto); or cease to conduct business in the manner conducted by Borrower as of the Closing Date; or suffer or permit a Change in Control unless all Obligations are paid in full out of the proceeds of the initial closing of such action and such payment is listed as a condition to the consummation of such action; or without thirty (30) days prior written notification to Bank, relocate its chief executive office or state of incorporation or change its legal name; or without Bank’s prior written consent, change the date on which its fiscal year ends.

**7.3 Mergers or Acquisitions.** If Bank is requested to maintain its commitment to the post- transaction entity, (i) Merge or consolidate, or permit any of its Subsidiaries to merge or consolidate, with or into any other business organization, (ii) acquire, or permit any of its Subsidiaries to acquire, all or substantially all of the capital stock or property of another Person, in either case except where (a) the consideration paid in connection with such transactions (including assumption of liabilities) does not in the aggregate exceed One Million Dollars (\$1,000,000) during any fiscal year, (b) no Event of Default has occurred, is continuing or would exist after giving effect to such transactions, (c) such transactions do not result in a Change in Control, and (d) Borrower is the surviving entity; provided however, (x) no such restriction or written notice to the Bank will be required for any action restricted by this Section 7.3 if all Obligations are paid in full out of the proceeds of the initial closing of such action and such payment is listed as a condition to the consummation of such action. Notwithstanding anything to the contrary contained in this Section, any Subsidiary that is not a borrower hereunder may merge or consolidate into any other Subsidiary that is not a borrower hereunder.

**7.4 Indebtedness.** Create, incur, assume or be or remain liable with respect to any Indebtedness, or permit any Subsidiary so to do, other than Permitted Indebtedness.

**7.5 Encumbrances.** Create, incur, assume or suffer to exist any Lien with respect to any of its property (including without limitation, its Intellectual Property Collateral), or assign or otherwise convey any right to receive income, including the sale of any Accounts, or permit any of its Subsidiaries to do so, except for Permitted Liens, or agree with any Person other than Bank not to grant a security interest in, or otherwise encumber, any of its property (including without limitation, its Intellectual Property Collateral), or permit any Subsidiary to do so.

**7.6 Distributions.** Pay any dividends or make any other distribution or payment on account of or in redemption, retirement or purchase of any capital stock, or permit any of its Subsidiaries to do so, except that Borrower may repurchase its common stock subject to any repurchase program authorized by its Board of Directors as long as (i) an Event of Default does not exist prior to such repurchase or would not exist after giving effect to such repurchase and (ii) Borrower has total unrestricted cash at Bank of at least Ten Million Dollars (\$10,000,000) before and after giving effect to such repurchase.

**7.7 Investments.** Directly or indirectly acquire or own, or make any Investment in or to any Person, or permit any of its Subsidiaries so to do, other than Permitted Investments; or maintain or invest any of its property with a Person other than Bank or permit any of its Subsidiaries to do so unless such Person has entered into an account control agreement with Bank in form and substance satisfactory to Bank; or suffer or permit any Subsidiary to be a party to, or be bound by, an agreement that restricts such Subsidiary from paying dividends or otherwise distributing property to Borrower.

**7.8 Transactions with Affiliates.** Directly or indirectly enter into or permit to exist any material transaction with any Affiliate of Borrower except for transactions that are in the ordinary course of Borrower's business, upon fair and reasonable terms that are no less favorable to Borrower than would be obtained in an arm's length transaction with a non-affiliated Person.

**7.9 Subordinated Debt.** Make any payment in respect of any Subordinated Debt, or permit any of its Subsidiaries to make any such payment, except in compliance with the terms of such Subordinated Debt, or amend any provision contained in any documentation relating to the Subordinated Debt without Bank's prior written consent.

**7.10 Inventory and Equipment.** Store the Inventory (if any) or the Equipment with a bailee, warehouseman, or other third party unless the third party has been notified of Bank's security interest and Bank (a) has received an acknowledgment from the third party that it is holding or will hold the Inventory (if any) or Equipment for Bank's benefit or (b) is in pledge possession of the warehouse receipt, where negotiable, covering such Inventory or Equipment. Store or maintain any Equipment or Inventory at a location other than the location set forth in Section 10 of this Agreement or other locations disclosed by Borrower to Bank in writing.

**7.11 Compliance.** Become an "investment company" or be controlled by an "investment company," within the meaning of the Investment Company Act of 1940, or become principally engaged in, or undertake as one of its important activities, the business of extending credit for the purpose of purchasing or carrying margin stock, or use the proceeds of any Credit Extension for such purpose. Fail to meet the minimum funding requirements of ERISA, permit a Reportable Event or Prohibited Transaction, as defined in ERISA, to occur, fail to comply with the Federal Fair Labor Standards Act or violate any law or regulation, which violation could have a Material Adverse Effect, or a material adverse effect on the Collateral or the priority of Bank's Lien on the Collateral, or permit any of its Subsidiaries to do any of the foregoing.

**7.12 Capital Expenditures.** Make or contract to make, without Bank's prior written consent, capital expenditures, including leasehold improvements, in any fiscal year in excess of the amount set forth in Borrower's board-approved plan, which plan must be reasonably acceptable to Bank.

## **8. EVENTS OF DEFAULT.**

Any one or more of the following events shall constitute an Event of Default by Borrower under this Agreement:

**8.1 Payment Default.** If Borrower fails to pay, when due, any of the Obligations;

**8.2 Covenant Default.**

(a) If Borrower fails to perform any obligation under Article 6 or violates any of the covenants contained in Article 7 of this Agreement; or

(b) If Borrower fails or neglects to perform or observe any other material term, provision, condition, covenant contained in this Agreement, in any of the Loan Documents, or in any other present or future agreement between Borrower and Bank and as to any default under such other term, provision, condition or covenant that can be cured, has failed to cure such default within ten days after Borrower receives notice thereof or any officer of Borrower becomes aware thereof; provided, however, that if the default cannot by its nature be cured within the ten day period or cannot after diligent attempts by Borrower be cured within such ten day period, and

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such default is likely to be cured within a reasonable time, then Borrower shall have an additional reasonable period (which shall not in any case exceed 30 days) to attempt to cure such default, and within such reasonable time period the failure to have cured such default shall not be deemed an Event of Default but no Credit Extensions will be made.

**8.3 Material Adverse Effect.** If there occurs any circumstance or circumstances that could have a Material Adverse Effect;

**8.4 Attachment.** If any portion of Borrower's assets is attached, seized, subjected to a writ or distress warrant, or is levied upon, or comes into the possession of any trustee, receiver or person acting in a similar capacity and such attachment, seizure, writ or distress warrant or levy has not been removed, discharged or rescinded within ten (10) days, or if Borrower is enjoined, restrained, or in any way prevented by court order from continuing to conduct all or any material part of its business affairs, or if a judgment or other claim becomes a lien or encumbrance upon any material portion of Borrower's assets, or if a notice of lien, levy, or assessment is filed of record with respect to any of Borrower's assets by the United States Government, or any department, agency, or instrumentality thereof, or by any state, county, municipal, or governmental agency, and the same is not paid within ten (10) days after Borrower receives notice thereof, provided that none of the foregoing shall constitute an Event of Default where such action or event is stayed or an adequate bond has been posted pending a good faith contest by Borrower (provided that no Credit Extensions will be required to be made during such cure period);

**8.5 Insolvency.** If Borrower becomes insolvent, or if an Insolvency Proceeding is commenced by Borrower, or if an Insolvency Proceeding is commenced against Borrower and is not dismissed or stayed within thirty (30) days (provided that no Credit Extensions will be made prior to the dismissal of such Insolvency Proceeding);

**8.6 Other Agreements.** If there is a default or other failure to perform in any agreement to which Borrower is a party or by which it is bound resulting in a right by a third party or parties, whether or not exercised, to accelerate the maturity of any Indebtedness in an amount in excess of Five Hundred Thousand Dollars (\$500,000) or which could have a Material Adverse Effect;

**8.7 Judgments.** If a final, non-appealable judgment or judgments for the payment of money in an amount, individually or in the aggregate, shall be rendered against Borrower and more than Five Hundred Thousand Dollars (\$500,000) of such judgment or judgments shall not be covered by Borrower's insurance, and shall remain unsatisfied and unstayed for a period of twenty (20) days (provided that no Credit Extensions will be made prior to the satisfaction or stay of such judgment); or

**8.8 Misrepresentations.** If any material misrepresentation or material misstatement exists now or hereafter in any warranty or representation set forth herein or in any certificate delivered to Bank by any Responsible Officer pursuant to this Agreement or to induce Bank to enter into this Agreement or any other Loan Document.

## **9. BANK'S RIGHTS AND REMEDIES.**

**9.1 Rights and Remedies.** Upon the occurrence and during the continuance of an Event of Default, Bank may, at its election, without notice of its election and without demand, do any one or more of the following, all of which are authorized by Borrower:

(a) Declare all Obligations, whether evidenced by this Agreement, by any of the other Loan Documents, or otherwise, immediately due and payable (provided that upon the occurrence of an Event of Default described in Section 8.5, all Obligations shall become immediately due and payable without any action by Bank);

(b) Cease advancing money or extending credit to or for the benefit of Borrower under this Agreement or under any other agreement between Borrower and Bank;

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(c) Settle or adjust disputes and claims directly with account debtors for amounts, upon terms and in whatever order that Bank reasonably considers advisable;

(d) Make such payments and do such acts as Bank considers necessary or reasonable to protect its security interest in the Collateral. Borrower agrees to assemble the Collateral if Bank so requires, and to make the Collateral available to Bank as Bank may designate. Borrower authorizes Bank to enter the premises where the Collateral is located, to take and maintain possession of the Collateral, or any part of it, and to pay, purchase, contest, or compromise any encumbrance, charge, or lien which in Bank's determination appears to be prior or superior to its security interest and to pay all expenses incurred in connection therewith. With respect to any of Borrower's owned premises, Borrower hereby grants Bank a license to enter into possession of such premises and to occupy the same, without charge, in order to exercise any of Bank's rights or remedies provided herein, at law, in equity, or otherwise;

(e) Set off and apply to the Obligations any and all (i) balances and deposits of Borrower held by Bank, or (ii) indebtedness at any time owing to or for the credit or the account of Borrower held by Bank;

(f) Ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, and sell (in the manner provided for herein) the Collateral. Bank is hereby granted a license or other right, solely pursuant to the provisions of this Section 9.1, to use, without charge, Borrower's labels, patents, copyrights, rights of use of any name, trade secrets, trade names, trademarks, service marks, and advertising matter, or any property of a similar nature, as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral and, in connection with Bank's exercise of its rights under this Section 9.1, Borrower's rights under all licenses and all franchise agreements shall inure to Bank's benefit;

(g) Dispose of the Collateral by way of one or more contracts or transactions, for cash or on terms, in such manner and at such places (including Borrower's premises) as Bank determines is commercially reasonable, and apply any proceeds to the Obligations in whatever manner or order Bank deems appropriate;

(h) Bank may credit bid and purchase at any public sale; and

(i) Any deficiency that exists after disposition of the Collateral as provided above will be paid immediately by Borrower.

**9.2 Power of Attorney.** Effective only upon the occurrence and during the continuance of an Event of Default, Borrower hereby irrevocably appoints Bank (and any of Bank's designated officers, or employees) as Borrower's true and lawful attorney to: (a) send requests for verification of Accounts or notify account debtors of Bank's security interest in the Accounts; (b) endorse Borrower's name on any checks or other forms of payment or security that may come into Bank's possession; (c) sign Borrower's name on any invoice or bill of lading relating to any Account, drafts against account debtors, schedules and assignments of Accounts, verifications of Accounts, and notices to account debtors; (d) dispose of any Collateral; (e) make, settle, and adjust all claims under and decisions with respect to Borrower's policies of insurance; (f) settle and adjust disputes and claims respecting the accounts directly with account debtors, for amounts and upon terms which Bank determines to be reasonable; and (g) to file, in its sole discretion, one or more financing or continuation statements and amendments thereto, relative to any of the Collateral. The appointment of Bank as Borrower's attorney in fact, and each and every one of Bank's rights and powers, being coupled with an interest, is irrevocable until all of the Obligations have been fully repaid and performed and Bank's obligation to provide Credit Extensions hereunder is terminated.

**9.3 Accounts Collection.** At any time after the occurrence of an Event of Default, Bank may notify any Person owing funds to Borrower of Bank's security interest in such funds and verify the amount of such Account. Borrower shall collect all amounts owing to Borrower for Bank, receive in trust all payments as Bank's trustee, and immediately deliver such payments to Bank in their original form as received from the account debtor, with proper endorsements for deposit.

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**9.4 Bank Expenses.** If Borrower fails to pay any amounts or furnish any required proof of payment due to third persons or entities, as required under the terms of this Agreement, then Bank may do any or all of the following after reasonable notice to Borrower: (a) make payment of the same or any part thereof; (b) set up such reserves under a loan facility in Section 2.1 as Bank deems necessary to protect Bank from the exposure created by such failure; or (c) obtain and maintain insurance policies of the type discussed in Section 6.6 of this Agreement, and take any action with respect to such policies as Bank deems prudent. Any amounts so paid or deposited by Bank shall constitute Bank Expenses, shall be immediately due and payable, and shall bear interest at the then applicable rate hereinabove provided, and shall be secured by the Collateral. Any payments made by Bank shall not constitute an agreement by Bank to make similar payments in the future or a waiver by Bank of any Event of Default under this Agreement.

**9.5 Bank's Liability for Collateral.** So long as Bank complies with reasonable banking practices, Bank shall not in any way or manner be liable or responsible for: (a) the safekeeping of the Collateral; (b) any loss or damage thereto occurring or arising in any manner or fashion from any cause; (c) any diminution in the value thereof; or (d) any act or default of any carrier, warehouseman, bailee, forwarding agency, or other person whomsoever. All risk of loss, damage or destruction of the Collateral shall be borne by Borrower.

**9.6 Remedies Cumulative.** Bank's rights and remedies under this Agreement, the Loan Documents, and all other agreements shall be cumulative. Bank shall have all other rights and remedies not inconsistent herewith as provided under the Code, by law, or in equity. No exercise by Bank of one right or remedy shall be deemed an election, and no waiver by Bank of any Event of Default on Borrower's part shall be deemed a continuing waiver. No delay by Bank shall constitute a waiver, election, or acquiescence by it. No waiver by Bank shall be effective unless made in a written document signed on behalf of Bank and then shall be effective only in the specific instance and for the specific purpose for which it was given.

**9.7 Demand; Protest.** Borrower waives demand, protest, notice of protest, notice of default or dishonor, notice of payment and nonpayment, notice of any default, nonpayment at maturity, release, compromise, settlement, extension, or renewal of accounts, documents, instruments, chattel paper, and guarantees at any time held by Bank on which Borrower may in any way be liable.

## **10. NOTICES.**

All notices, consents, requests, approvals, demands, or other communication by any party to this Agreement or any other Loan Document must be in writing and shall be deemed to have been validly served, given, or delivered: (a) upon the earlier of actual receipt and three (3) Business Days after deposit in the U.S. mail, first class, registered or certified mail return receipt requested, with proper postage prepaid; (b) upon transmission, when sent by electronic mail or facsimile transmission; (c) one (1) Business Day after deposit with a reputable overnight courier with all charges prepaid; or (d) when delivered, if hand-delivered by messenger, all of which shall be addressed to the party to be notified and sent to the address, facsimile number, or email address indicated below. Bank or Borrower may change its mailing or electronic mail address or facsimile number by giving the other party written notice thereof in accordance with the terms of this Section 10.

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If to Borrower: TechTarget, Inc.  
275 Grove Street  
Newton, MA 02466  
Attn: Daniel T. Noreck, Chief Financial Officer  
EMAIL: dnoreck@techtarget.com

If to Bank: Western Alliance Bank  
28 State Street, Suite 2301  
Boston, MA 02109  
Attn: Benjamin Kirtland  
FAX: (\_\_\_\_)\_\_\_\_\_  
EMAIL: ben.kirtland@bridgebank.com

The parties 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.

**11. CHOICE OF LAW AND VENUE; JURY TRIAL WAIVER.**

This Agreement shall be governed by, and construed in accordance with, the internal laws of the State of California, without regard to principles of conflicts of law. Each of Borrower and Bank hereby submits to the exclusive jurisdiction of the state and Federal courts located in the County of Santa Clara, State of California. BORROWER AND BANK EACH 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. EACH PARTY RECOGNIZES AND AGREES THAT THE FOREGOING WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR IT TO ENTER INTO THIS AGREEMENT. EACH PARTY REPRESENTS AND WARRANTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

**12. JUDICIAL REFERENCE PROVISION.**

**12.1** In the event the Jury Trial Waiver set forth above is not enforceable, the parties elect to proceed under this Judicial Reference Provision.

**12.2** With the exception of the items specified in Section 12.3, below, any controversy, dispute or claim (each, a "**Claim**") between the parties arising out of or relating to this Agreement or any other document, instrument or agreement between the undersigned parties (collectively in this Section, the "**Loan Documents**"), will be resolved by a reference proceeding in California in accordance with the provisions of Sections 638 et seq. of the California Code of Civil Procedure ("**CCP**"), or their successor sections, which shall constitute the exclusive remedy for the resolution of any Claim, including whether the Claim is subject to the reference proceeding. Except as otherwise provided in the Loan Documents, venue for the reference proceeding will be in the state or federal court in the county or district where the real property involved in the action, if any, is located or in the state or federal court in the county or district where venue is otherwise appropriate under applicable law (the "**Court**").

**12.3** The matters that shall not be subject to a reference are the following: (i) nonjudicial foreclosure of any security interests in real or personal property, (ii) exercise of self-help remedies (including, without limitation, set-off), (iii) appointment of a receiver and (iv) temporary, provisional or ancillary remedies (including, without limitation, writs of attachment, writs of possession, temporary restraining orders or preliminary injunctions). This reference provision does not limit the right of any party to exercise or oppose any of the rights and remedies described in clauses (i) and (ii) or to seek or oppose from a court of competent jurisdiction any of the items described in clauses (iii) and (iv). The exercise of, or opposition to, any of those items does not waive the right of any party to a reference pursuant to this reference provision as provided herein.

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**12.4** The referee shall be a retired judge or justice selected by mutual written agreement of the parties. If the parties do not agree within ten (10) days of a written request to do so by any party, then, upon request of any party, the referee shall be selected by the Presiding Judge of the Court (or his or her representative). A request for appointment of a referee may be heard on an ex parte or expedited basis, and the parties agree that irreparable harm would result if ex parte relief is not granted. Pursuant to CCP § 170.6, each party shall have one preemptory challenge to the referee selected by the Presiding Judge of the Court (or his or her representative).

**12.5** The parties agree that time is of the essence in conducting the reference proceedings. Accordingly, the referee shall be requested, subject to change in the time periods specified herein for good cause shown, to (i) set the matter for a status and trial-setting conference within fifteen (15) days after the date of selection of the referee, (ii) if practicable, try all issues of law or fact within one hundred twenty (120) days after the date of the conference and (iii) report a statement of decision within twenty (20) days after the matter has been submitted for decision.

**12.6** The referee will have power to expand or limit the amount and duration of discovery. The referee may set or extend discovery deadlines or cutoffs for good cause, including a party's failure to provide requested discovery for any reason whatsoever. Unless otherwise ordered based upon good cause shown, no party shall be entitled to "priority" in conducting discovery, depositions may be taken by either party upon seven (7) days written notice, and all other discovery shall be responded to within fifteen (15) days after service. All disputes relating to discovery which cannot be resolved by the parties shall be submitted to the referee whose decision shall be final and binding.

**12.7** Except as expressly set forth herein, the referee shall determine the manner in which the reference proceeding is conducted including the time and place of hearings, the order of presentation of evidence, and all other questions that arise with respect to the course of the reference proceeding. All proceedings and hearings conducted before the referee, except for trial, shall be conducted without a court reporter, except that when any party so requests, a court reporter will be used at any hearing conducted before the referee, and the referee will be provided a courtesy copy of the transcript. The party making such a request shall have the obligation to arrange for and pay the court reporter. Subject to the referee's power to award costs to the prevailing party, the parties will equally share the cost of the referee and the court reporter at trial.

**12.8** The referee shall be required to determine all issues in accordance with existing case law and the statutory laws of the State of California. The rules of evidence applicable to proceedings at law in the State of California will be applicable to the reference proceeding. The referee shall be empowered to enter equitable as well as legal relief, enter equitable orders that will be binding on the parties and rule on any motion which would be authorized in a court proceeding, including without limitation motions for summary judgment or summary adjudication. The referee shall issue a decision at the close of the reference proceeding which disposes of all claims of the parties that are the subject of the reference. Pursuant to CCP § 644, such decision shall be entered by the Court as a judgment or an order in the same manner as if the action had been tried by the Court and any such decision will be final, binding and conclusive. The parties reserve the right to appeal from the final judgment or order or from any appealable decision or order entered by the referee. The parties reserve the right to findings of fact, conclusions of laws, a written statement of decision, and the right to move for a new trial or a different judgment, which new trial, if granted, is also to be a reference proceeding under this provision.

**12.9** If the enabling legislation which provides for appointment of a referee is repealed (and no successor statute is enacted), any dispute between the parties that would otherwise be determined by reference procedure will be resolved and determined by arbitration. The arbitration will be conducted by a retired judge or justice, in accordance with the California Arbitration Act §1280 through §1294.2 of the CCP as amended from time to time. The limitations with respect to discovery set forth above shall apply to any such arbitration proceeding.

**12.10** THE PARTIES RECOGNIZE AND AGREE THAT ALL CONTROVERSIES, DISPUTES AND CLAIMS RESOLVED UNDER THIS REFERENCE PROVISION WILL BE DECIDED BY A REFEREE AND NOT BY A JURY. AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS, HIS OR HER OWN CHOICE, EACH PARTY KNOWINGLY AND VOLUNTARILY, AND FOR THE MUTUAL BENEFIT OF ALL PARTIES, AGREES THAT THIS REFERENCE PROVISION WILL APPLY TO ANY CONTROVERSY, DISPUTE OR CLAIM BETWEEN OR AMONG THEM ARISING OUT OF OR IN ANY WAY RELATED TO, THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS.

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### 13. GENERAL PROVISIONS.

**13.1 Successors and Assigns.** This Agreement shall bind and inure to the benefit of the respective successors and permitted assigns of each of the parties; provided, however, that neither this Agreement nor any rights hereunder may be assigned by Borrower without Bank's prior written consent, which consent may be granted or withheld in Bank's sole discretion. Bank shall have the right without the consent of or notice to Borrower to sell, transfer, negotiate, or grant participation in all or any part of, or any interest in, Bank's obligations, rights and benefits hereunder.

**13.2 Indemnification.** Borrower shall defend, indemnify and hold harmless Bank and its officers, employees, and agents against: (a) all obligations, demands, claims, and liabilities claimed or asserted by any other party in connection with the transactions contemplated by this Agreement; and (b) all losses or Bank Expenses in any way suffered, incurred, or paid by Bank as a result of or in any way arising out of, following, or consequential to transactions between Bank and Borrower whether under this Agreement, or otherwise (including without limitation reasonable attorneys' fees and expenses), except for losses caused by Bank's gross negligence or willful misconduct.

**13.3 Time of Essence.** Time is of the essence for the performance of all obligations set forth in this Agreement.

**13.4 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.

**13.5 Amendments in Writing, Integration.** Neither this Agreement nor the Loan Documents can be amended or terminated orally. All prior agreements, understandings, representations, warranties, and negotiations between the parties hereto with respect to the subject matter of this Agreement and the Loan Documents, if any, are merged into this Agreement and the Loan Documents.

**13.6 Counterparts.** 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.

**13.7 Survival.** All covenants, representations and warranties made in this Agreement shall continue in full force and effect so long as any Obligations remain outstanding or Bank has any obligation to make Credit Extensions to Borrower. The obligations of Borrower to indemnify Bank with respect to the expenses, damages, losses, costs and liabilities described in Section 13.2 shall survive until all applicable statute of limitations periods with respect to actions that may be brought against Bank have run.

**13.8 Confidentiality.** In handling any confidential information Bank and all employees and agents of Bank, including but not limited to accountants, shall exercise the same degree of care that it exercises with respect to its own proprietary information of the same types to maintain the confidentiality of any non-public information thereby received or received pursuant to this Agreement except that disclosure of such information may be made (i) to the subsidiaries or affiliates of Bank in connection with their present or prospective business relations with Borrower, (ii) to prospective transferees or purchasers of any interest in the Loans, (iii) as required by law, regulations, rule or order, subpoena, judicial order or similar order, (iv) as may be required in connection with the examination, audit or similar investigation of Bank and (v) as Bank may determine in connection with the enforcement of any remedies hereunder. Confidential information hereunder shall not include information that either: (a) is in the public domain or in the knowledge or possession of Bank when disclosed to Bank, or becomes part of the public domain after disclosure to Bank through no fault of Bank; or (b) is disclosed to Bank by a third party, provided Bank does not have actual knowledge that such third party is prohibited from disclosing such information.

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**13.9 Patriot Act Notice.** Bank notifies Borrower that, pursuant to the requirements of the USA Patriot Act, Title III of Pub. L. 107-56 (signed into law on October 26, 2001) (the “Patriot Act”), it is required to obtain, verify and record information that identifies Borrower, which information includes names and addresses and other information that will allow Bank to identify Borrower in accordance with the Patriot Act.

**14. NOTICE OF FINAL AGREEMENT.**

**BY SIGNING THIS DOCUMENT EACH PARTY REPRESENTS AND AGREES THAT: (A) THIS WRITTEN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES, (B) THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES, AND (C) THIS WRITTEN AGREEMENT MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OR UNDERSTANDINGS OF THE PARTIES.**

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

**TECHTARGET, INC.**

By: /s/ Daniel T. Noreck

Name: Daniel T. Noreck

Title: Chief Financial Officer

**WESTERN ALLIANCE BANK, AN ARIZONA CORPORATION**

By: /s/ Ben Kirtland

Name: Ben Kirtland

Title: Vice President

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**EXHIBIT A**

**DEBTOR:**

**TECHTARGET, INC.**

**SECURED PARTY:**

**WESTERN ALLIANCE BANK, an Arizona corporation**

**COLLATERAL DESCRIPTION ATTACHMENT TO LOAN AND SECURITY AGREEMENT**

All personal property of Borrower (herein referred to as "Borrower" or "Debtor") whether presently existing or hereafter created or acquired, and wherever located, including, but not limited to:

(a) all accounts (including health-care-insurance receivables), chattel paper (including tangible and electronic chattel paper), deposit accounts, documents (including negotiable documents), equipment (including all accessions and additions thereto), general intangibles (including payment intangibles and software), goods (including fixtures), instruments (including promissory notes), inventory (including all goods held for sale or lease or to be furnished under a contract of service, and including returns and repossessions), investment property (including securities and securities entitlements), letter of credit rights, money, and all of Debtor's books and records with respect to any of the foregoing, and the computers and equipment containing said books and records;

(b) any and all cash proceeds and/or noncash proceeds of any of the foregoing, including, without limitation, insurance proceeds, and all supporting obligations and the security therefor or for any right to payment. All terms above have the meanings given to them in the California Uniform Commercial Code, as amended or supplemented from time to time.

Notwithstanding the foregoing, the Collateral does not include more than 65% of the presently existing and hereafter arising issued and outstanding shares of capital stock owned by Borrower of any Foreign Subsidiary which shares entitle the holder thereof to vote for directors or any other matter.

**EXHIBIT B**  
**COMPLIANCE CERTIFICATE**

TO: WESTERN ALLIANCE BANK, an Arizona corporation  
FROM: TECHTARGET, INC., a Delaware corporation

The undersigned authorized officer of Tech Target, Inc. hereby certifies that in accordance with the terms and conditions of the Loan and Security Agreement between Borrower and Bank (the "Agreement"), (i) Borrower is in complete compliance for the period ending \_\_\_\_\_ with all required covenants except as noted below and (ii) all representations and warranties of Borrower stated in the Agreement are true and correct as of the date hereof. Attached herewith are the required documents supporting the above certification. The Officer further certifies that these are prepared in accordance with Generally Accepted Accounting Principles (GAAP) and are consistently applied from one period to the next except as explained in an accompanying letter or footnotes.

**Please indicate compliance status by circling Yes/No under "Complies" column.**

<u>Reporting Covenant</u>	<u>Required</u>	<u>Complies</u>
10K	FYE within 90 days	Yes No
10Q and Compliance Certificate	Quarterly, within 45 days of quarter-end	Yes No
Annual operating budget, sales projections and operating plans approved by board of directors	Annually no later than 30 days after the earlier of FYE or board approval	Yes No
A/R & A/P Agings	Quarterly, within 45 days of quarter-end	Yes No
<u>Financial Covenant</u>	<u>Required</u>	<u>Actual</u>
Maximum Leverage Ratio	No more than 2.00:1.00	____:1.00

**Comments Regarding Exceptions:** See Attached.

Sincerely,

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

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## SCHEDULE OF EXCEPTIONS

### Permitted Indebtedness (Section 1.1)

<u>Depositor</u>	<u>Amount of Cash Security Deposit</u>	<u>Name of Holder of Security Deposit</u>
TechTarget, Inc.	\$495,000	Hines Global REIT
TechTarget, Inc.	\$65,050	MIREF 250 Montgomery
TechTarget, Inc.	187,330 GBP	Brook Street des Roches

### Permitted Investments (Section 1.1)

TechTarget Securities Corporation, a Massachusetts corporation  
TechTarget Limited, a company formed under the laws of the United Kingdom  
TechTarget (HK) Limited, a company formed under the laws of Hong Kong  
TechTarget (Australia) Pty Ltd., a company formed under the laws of Australia  
TechTarget (Singapore) PTE. Ltd., a company formed under the laws of Singapore  
SAS E-Magine Medias, a company formed under the laws of France  
TechTarget Germany GmbH, a company formed under the laws of Germany

### Permitted Liens (Section 1.1)

<u>Depositor</u>	<u>Amount of Cash Security Deposit</u>	<u>Name of Holder of Security Deposit</u>
TechTarget, Inc.	\$495,000	Hines Global REIT
TechTarget, Inc.	\$65,050	MIREF 250 Montgomery
TechTarget, Inc.	187,330 GBP	Brook Street des Roches

### Inbound Licenses (Section 5.6)

None.

### Prior Names (Section 5.7)

TechTarget.com, Inc.

### Litigation (Section 5.8)

None.

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