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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2013

OR

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

For the transition period from_____ to _____

Commission File Number: 001-36155

MARCUS & MILLICHAP, INC.
(Exact Name of Registrant as Specified in Its Charter)

Delaware	**35-2478370**
(State or Other Jurisdiction of Incorporation or Organization)	**(I.R.S. Employer Identification No.)**
23975 Park Sorrento, Suite 400 Calabasas, California	**91302**
(Address of Principal Executive Offices)	**(Zip Code)**

(818) 212-2250
(Registrant's Telephone Number, Including Area Code)

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definition of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer	☐	Accelerated filer	☐
Non-accelerated filer	☒ (Do not check if a smaller reporting company)	Smaller reporting company	☐

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

As of November 22, 2013, the registrant had 36,600,897 shares of common stock issued and outstanding.

MARCUS & MILLICHAP REAL ESTATE INVESTMENT SERVICES, INC. AND SUBSIDIARIES

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PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

MARCUS & MILLICHAP REAL ESTATE INVESTMENT SERVICES, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED BALANCE SHEETS

(dollar amounts in thousands, except share amounts)

	September 30, 2013 (Unaudited)	December 31, 2012
Assets		
Current assets:		
Cash and cash equivalents	$ 28,679	$ 3,107
Commissions receivable, net of allowance for doubtful accounts of $100 and $129 at September 30, 2013 and December 31, 2012, respectively	4,308	5,764
Employee notes receivable	156	807
Prepaid expenses and other current assets	6,769	2,903
Total current assets	39,912	12,581
Prepaid rent	4,909	2,855
Investments held in rabbi trust account	3,832	2,905
Property and equipment, net of accumulated depreciation of $18,370 and $17,917 at September 30, 2013 and December 31, 2012, respectively	8,476	6,688
Due from affiliates	—	60,389
Employee notes receivable	228	350
Other assets	3,431	3,965
Total assets	$ 60,788	$ 89,733
Liabilities and stockholders' equity		
Current liabilities:		
Accounts payable and accrued expenses	$ 6,821	$ 14,350
Commissions payable	12,103	22,584
Due to affiliates	13,528	—
Accrued employee expenses	10,215	17,519
Total current liabilities	42,667	54,453
Deferred compensation and commissions	9,430	9,121
Other liabilities	5,007	4,529
Total liabilities	57,104	68,103
Stockholders' equity:		
Series A redeemable preferred stock, $10.00 par value:	10	10
Authorized shares – 1,000; issued and outstanding shares – 1,000 at September 30, 2013 and December 31, 2012; $10.00 redemption value per share at September 30, 2013 and December 31, 2012		
Common stock, $1.00 par value:		
Authorized shares – 1,000,000; issued and outstanding shares –234,489 and 233,739 at September 30, 2013 and December 31, 2012, respectively	235	234
Additional paid-in capital	2,675	24,718
Stock notes receivable from employees	(13)	(150)
Retained earnings (accumulated deficit)	777	(3,182)
Total stockholders' equity	3,684	21,630
Total liabilities and stockholders' equity	$ 60,788	$ 89,733

See accompanying notes to condensed consolidated financial statements.

MARCUS & MILLICHAP REAL ESTATE INVESTMENT SERVICES, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

(UNAUDITED)

(dollar amounts in thousands)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2013	2012	2013	2012
Revenues:				
Real estate brokerage commissions	$101,757	$82,620	$258,720	$216,029
Financing fees	6,783	5,195	18,671	13,413
Other revenues	3,413	3,413	9,403	8,636
Total revenues	111,953	91,228	286,794	238,078
Operating expenses:				
Cost of services	67,718	54,194	170,395	138,903
Selling, general, and administrative expense	30,863	25,007	84,687	70,907
Depreciation and amortization expense	747	732	2,261	2,227
Total operating expenses	99,328	79,933	257,343	212,037
Operating income	12,625	11,295	29,451	26,041
Other income, net	247	41	496	324
Income before provision for income taxes	12,872	11,336	29,947	26,365
Provision for income taxes	5,597	4,931	13,025	11,469
Net income	$ 7,275	$ 6,405	$ 16,922	$ 14,896

See accompanying notes to condensed consolidated financial statements.

MARCUS & MILLICHAP REAL ESTATE INVESTMENT SERVICES, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENT OF STOCKHOLDERS' EQUITY

(UNAUDITED)

(dollar amounts in thousands, except share amounts)

	Series A Redeemable Preferred Stock		Common Stock		Additional Paid-In Capital	Stock Notes Receivable From Employees	Retained Earnings (Accumulated Deficit)	Total
	Shares	Amount	Shares	Amount				
Balance as of December 31, 2012	1,000	$ 10	233,739	$ 234	$ 24,718	$ (150)	$ (3,182)	$ 21,630
Net income	—	—	—	—	—	—	16,922	16,922
Preferred dividends declared and paid	—	—	—	—	(24,718)	—	(6,463)	(31,181)
Preferred dividends declared	—	—	—	—	—	—	(6,500)	(6,500)
Deemed capital contribution from MMC	—	—	—	—	2,655	—	—	2,655
Issuance of restricted stock	—	—	750	1	20	(21)	—	—
Payments on stock notes receivable from employees	—	—	—	—	—	158	—	158
Balance as of September 30, 2013	1,000	$ 10	234,489	$ 235	$ 2,675	$ (13)	$ 777	$ 3,684

See accompanying notes to condensed consolidated financial statements.

MARCUS & MILLICHAP REAL ESTATE INVESTMENT SERVICES, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

(UNAUDITED)

(in thousands)

	Nine Months Ended September 30,	
	2013	2012
Cash flows from operating activities		
Net income	$ 16,922	$ 14,896
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization expense	2,261	2,227
Provision for bad debt expense	8	174
Stock-based compensation, net of taxes	2,655	2,228
Other non-cash items	40	16
Changes in operating assets and liabilities:		
Commissions receivable	1,484	(2,032)
Prepaid expenses and other current assets	(709)	(267)
Prepaid rent	(2,053)	195
Investments in rabbi trust account	(927)	(442)
Other assets	497	155
Due to (from) affiliates	67,418	9,827
Accounts payable and accrued expenses	(8,537)	(2,728)
Commissions payable	(10,482)	(1,488)
Accrued employee expenses	(7,303)	(441)
Deferred compensation and commissions	309	125
Other liabilities	509	(1,921)
Net cash provided by operating activities	62,092	20,524
Cash flows from investing activities		
Payments on employee notes receivable	1,119	411
Issuances of employee notes receivable	(345)	(625)
Purchase of property and equipment	(3,697)	(2,921)
Proceeds from sale of property and equipment	32	25
Net cash used in investing activities	(2,891)	(3,110)
Cash flows from financing activities		
Payments on obligations under capital leases	(32)	(155)
Payments of initial public offering costs	(2,574)	—
Dividends paid to MMC	(31,181)	(15,654)
Repayment of stock notes receivable from employees	158	86
Net cash used in financing activities	(33,629)	(15,723)
Net increase in cash and cash equivalents	25,572	1,691
Cash and cash equivalents at beginning of period	3,107	3,158
Cash and cash equivalents at end of period	$ 28,679	$ 4,849

MARCUS & MILLICHAP REAL ESTATE INVESTMENT SERVICES, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS CASH FLOWS (continued)

(UNAUDITED)

(in thousands)

	Nine months Ended September 30,	
	2013	2012
Supplemental disclosures of cash flow information		
Interest paid during the period	$ 1	$ 3
Income taxes paid to MMC	$19,694	$12,061
Supplemental disclosures of noncash investing and financing activities		
Deferred offering costs included in accounts payable and other accrued expenses	$ 583	—
Property and equipment included in accounts payable and accrued expenses	$ 425	—
Issuance of restricted stock for notes receivable	$ 21	$ 90
Deemed capital contribution from MMC	$ 2,655	$ 2,228
Preferred dividends declared but not paid	$ 6,500	—

See accompanying notes to condensed consolidated financial statements.

MARCUS & MILLICHAP REAL ESTATE INVESTMENT SERVICES, INC. AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(UNAUDITED)
(dollar amounts in thousands, except share amounts)

1. Description of business, basis of presentation and accounting policies

Description of business

Marcus and Millichap Real Estate Investment Services, Inc. (the "Company", "MMREIS", "we", "us", or "our") is a brokerage firm specializing in commercial real estate investment sales, financing, research, and advisory services. MMREIS was incorporated in 1976 and prior to the completion of its initial public offering (the "IPO") on November 5, 2013, the Company was majority-owned by Marcus & Millichap Company ("MMC") and all of the Company's preferred and common stock outstanding was held by MMC and its affiliates or officers and employees of the Company. In June 2013, in preparation for the spin-off of its real estate investment services business, or the Spin-Off, MMC formed Marcus & Millichap, Inc. ("Marcus & Millichap" or "MMI"). See Note 9 - Subsequent Events for additional information.

Basis of Presentation

The financial information presented in the accompanying unaudited condensed consolidated financial statements as of September 30, 2013, and for the three and nine month periods ended September 30, 2013 and 2012, have been prepared in accordance with rules and regulations of the U.S. Securities and Exchange Commission ("SEC") for quarterly reports on Form 10–Q and Article 10-01 of Regulation S-X. Accordingly, some information and footnote disclosures required by U.S. generally accepted accounting principles ("GAAP") for complete financial statements have been condensed or omitted. In the opinion of management, the accompanying unaudited condensed consolidated financial statements and notes include all adjustments (consisting only of normal recurring adjustments) necessary for a fair presentation of the consolidated financial position, results of operations and cash flows for the periods presented. The results of the three and nine months ended September 30, 2013 are not necessarily indicative of the results to be expected for the calendar year ending December 31, 2013, or for other interim periods or future years. These unaudited condensed consolidated financial statements should be read in conjunction with the annual audited consolidated financial statements and notes thereto included in MMI's Final Prospectus filed with the SEC on October 31, 2013 pursuant to Rule 424(b)(5) of the Securities Act of 1933.

Consolidation

The accompanying condensed consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All significant intercompany balances and transactions have been eliminated in consolidation.

Use of Estimates

The preparation of consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the related disclosures at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Concentration of Credit Risk

Financial instruments that potentially subject the Company to a concentration of credit risk principally consist of cash, due from affiliate, and receivables. Cash is placed with high-credit quality financial institutions. The Company historically has not experienced any losses in its cash and cash equivalent or due from affiliate. The Company maintains allowances for estimated credit losses based on management's assessment of the likelihood of collection. As of September 30, 2013 and December 31, 2012, no individual accounted for 10% or more of commissions receivable.

The Company derives its revenues from a broad range of real estate investors, owners, and users in the United States, none of which individually represents a significant concentration of credit risk. For the three and nine months ended September 30, 2013 and 2012, no individual customer represented 10% or more of total revenues.

MARCUS & MILLICHAP REAL ESTATE INVESTMENT SERVICES, INC. AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(UNAUDITED)
(dollar amounts in thousands, except share amounts)

Accounting Policies

Refer to MMI's Final Prospectus for a complete discussion of all significant accounting policies. See Note 9 - Subsequent Events for additional information related to income taxes and stock-based compensation.

2. Property and Equipment

Property and equipment consist of the following:

	September 30, 2013	December 31, 2012
Computer software and hardware equipment	$ 7,489	$ 6,211
Furniture, fixtures, and equipment	19,357	18,394
Less accumulated depreciation and amortization	(18,370)	(17,917)
	$ 8,476	$ 6,688

Furniture, fixtures and equipment with a net book value of $39 and $160, are recorded under capital leases as of September 30, 2013 and December 31, 2012, respectively. The related depreciation of these assets is included in depreciation expense.

Payments for certain improvements to the Company's leased office space are recorded as prepaid rent. Amortization of prepaid rent is recorded over the lease term as an increase to rent expense using the straight-line method.

3. Selected Balance Sheet Data

Commissions Receivable

Commissions receivable consisted of the following:

	September 30, 2013	December 31, 2012
Commissions due from buyer/seller	$ 3,288	$ 5,205
Due from sales agents	1,120	688
Less allowance for doubtful accounts	(100)	(129)
	$ 4,308	$ 5,764

The following table presents the changes in the allowance for doubtful accounts:

	September 30, 2013	December 31, 2012
Balance at beginning of period	$ (129)	$ (143)
Provision for losses on commissions receivable	—	—
Write-off of uncollectible commissions receivable	29	14
Balance at end of period	$ (100)	$ (129)

MARCUS & MILLICHAP REAL ESTATE INVESTMENT SERVICES, INC. AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(UNAUDITED)
(dollar amounts in thousands, except share amounts)

Prepaid Expenses and Other Current Assets

Deferred Offering Costs

Deferred offering costs, consisting of legal, accounting and other fees and costs relating to the initial public offering, are capitalized and included in prepaid expenses and other current assets in the consolidated balance sheets. The deferred offering costs will be offset against the initial public offering proceeds upon the closing of the IPO which occurred on November 5, 2013. There were $3,157 of capitalized deferred offering costs as of September 30, 2013 and no similar costs as of December 31, 2012.

Other Assets

Other assets consisted of the following:

	September 30, 2013	December 31, 2012
Commission notes receivable	$ 290	$ 739
Due from sales agents	590	376
Agent recruiting receivable	1,459	1,766
Security deposits and other	1,092	1,084
	$ 3,431	$ 3,965

Other Liabilities

Other liabilities consisted of the following:

	September 30, 2013	December 31, 2012
Long term deferred rent	$ 3,530	$ 2,703
Accrued legal	1,351	1,826
Other	126	—
	$ 5,007	$ 4,529

MARCUS & MILLICHAP REAL ESTATE INVESTMENT SERVICES, INC. AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(UNAUDITED)
(dollar amounts in thousands, except share amounts)

Deferred Compensation and Commissions

Deferred compensation and commissions consisted of the following:

	September 30, 2013	December 31, 2012
Commissions payable	$ 6,070	$ 6,700
Deferred compensation liability	3,360	2,421
	$ 9,430	$ 9,121

During the fiscal year ended March 31, 2001, the Company established the MMREIS Deferred Compensation Plan (the Deferred Compensation Plan) for a select group of management. The Deferred Compensation Plan has similar characteristics of a 401(k) plan and provides the Deferred Compensation Plan participants additional flexibility in terms of contribution and distribution elections. Participants may elect to invest in various equity and debt securities offered within the Deferred Compensation Plan program. The Company chose to fund the Deferred Compensation Plan through variable life insurance policies purchased for the participants' benefit. The Deferred Compensation Plan is managed by a third-party institutional fund manager, and the deferred compensation and investment earnings are held as a Company asset in a rabbi trust. This trust account is restricted unless the Company becomes insolvent, as defined in the Deferred Compensation Plan, in which case the Deferred Compensation Plan's assets are subject to the claims of the Company's creditors. The Company may also, in its sole and absolute discretion, elect to withdraw at any time all or a portion of the amount by which the fair market value of the Deferred Compensation Plan's assets exceeds 110% of the aggregate amount credited to the Deferred Compensation Plan's participants' accounts, as defined by the Deferred Compensation Plan.

The deferred compensation liability is included in other liabilities on the consolidated balance sheets as reflected above. The net change in the carrying value of the investment assets and the related obligation are recorded in other income, net and selling, general, and administrative expense, respectively, in the consolidated statements of operations.

4. Related-Party Transactions

Amounts due from (to) affiliates consisted of the following:

	September 30, 2013	December 31, 2012
Cash sweep receivable from MMC	$ —	$ 71,905
Dividends payable to MMC	(6,500)	—
Taxes payable to MMC	(6,490)	(11,133)
General and administrative expenses payable to MMC	(538)	(383)
	$ (13,528)	$ 60,389

Prior to June 30, 2013, the majority of the cash generated and used in the Company's operations was held in bank accounts with one financial institution that were included in a sweep arrangement with MMC. Pursuant to a treasury management service agreement with that financial institution, the cash was swept daily into MMC's money market account. The Company collected interest income from MMC at the same interest rate as MMC earned on the money market account. Historically, other than for a 2-week period around MMC's March 31 fiscal year end, the Company had a receivable from MMC for the cash that was swept. When the sweep arrangement was not in effect, during the week before and the week after March 31, the Company's cash balances remained in the Company's bank accounts. As of June 30, 2013, the sweep arrangement with MMC was permanently terminated.

MMC has a credit agreement under which, the Company, along with many other entities controlled by MMC, was a guarantor as of September 30, 2013. The credit agreement comprises two components, a line of credit and a term loan which mature on September 26, 2015 and June 1, 2019, respectively. There are certain covenants that the Company is required to comply with, such as providing an annual audit report, and quarterly financial statements. The Company would be required to satisfy the outstanding obligation upon an event of default as defined in the credit agreement. Under the terms of the guarantee, there is not a specific allocation of liability related to the Company as all guarantors would be combined for paying specific claims. The Company's guarantee for each component of the credit agreement expires on the respective maturity date. The maximum amount of future

MARCUS & MILLICHAP REAL ESTATE INVESTMENT SERVICES, INC. AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

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(dollar amounts in thousands, except share amounts)

payments that the Company could be required to make under the guarantee as of September 30, 2013 is equal to the amount outstanding of $56,900 ($39,400 outstanding on the line of credit and $17,500 advanced under the term loan component of the line). The maximum amount of future payments that the Company could be required to make under the guarantee as of December 31, 2012 was equal to the amount outstanding of $49,700 ($30,700 outstanding on the line of credit and $19,000 advanced under the term loan component of the line). At December 31, 2012 and September 30, 2013, MMC was in compliance with all debt covenants under the terms of the line of credit agreement. The Company was released from the guaranty effective November 5, 2013 in connection with the Spin-Off and the IPO.

Total dividends declared and paid for the nine months ended September 30, 2013 and 2012 were $31,181 and $15,654, respectively. Total dividends declared but not paid for nine months ended September 30, 2013 and 2012 were $6,500 and $0, respectively. In October 2013, dividends in the amount of $6,500 were paid.

Under a shared services arrangement with MMC, MMC provided services to the Company. During the three months ended September 30, 2013 and 2012, the Company incurred $493 and $486, respectively under the shared services arrangement. During the nine months ended September 30, 2013 and 2012, the Company incurred $896 and $834, respectively, to MMC pursuant to this arrangement. In connection with the IPO, the shared services arrangement with MMC was replaced by a Transition Services Agreement between MMI and MMC that became effective upon the completion of the IPO. In accordance with the Transition Services Agreement, MMC will continue to incur certain general and administrative expenses on behalf of MMI. See Note 9 - Subsequent Events for additional information.

Amounts representing health insurance premiums incurred by MMC on behalf of the Company for three months ended September 30, 2013 and 2012 were $1,018, and $1,090, respectively. Amounts representing health insurance premiums incurred by MMC on behalf of the Company for nine months ended September 30, 2013 and 2012 were $2,823, and $2,661, respectively. Such expenses, paid by MMC on behalf of the Company, were allocated based on individual employee coverage costs.

During the three months ended September 30, 2013 and 2012, MMC incurred $112 and $112, respectively in general and administrative expenses on behalf of the Company. During the nine months ended September 30, 2013 and 2012, MMC incurred $501 and $470, respectively in general and administrative expenses on behalf of the Company. Expenses incurred by MMC, such as rent, corporate compensation, and other corporate costs, are allocated on a pro rata basis.

The Company earned interest income from MMC of $0 and $35 for the three months ended September 30, 2013 and 2012, respectively. The Company earned interest income from MMC of $74 and $95 for the nine months ended September 30, 2013 and 2012, respectively.

The Company issues loans to employees and concurrently recognizes an employee notes receivable. At September 30, 2013 and December 31, 2012, the aggregate principal amount outstanding was $384 and $1,157, respectively, which are included in employee notes receivable in the consolidated balance sheets.

MMC has wholly or majority owned subsidiaries that buy and sell commercial real estate properties. The Company has performed financing and brokerage services related to these transactions with the subsidiaries of MMC. Financing and brokerage service revenue from these transactions with the subsidiaries of MMC totaled $0 and $394 for the three months ended September 30, 2013 and September 30, 2012, respectively and $382 and $1,013 for the nine months ended September 30, 2013 and September 30, 2012, respectively. Commission expense for these transactions totaled $0 and $212 for the three months ended September 30, 2013 and 2012, respectively and $238 and $591 for the nine months ended September 30, 2013 and September 30, 2012, respectively.

The Company has an operating lease with MMC for an office located in Palo Alto, California. The lease expires April 30, 2015. Rent expense totaled $109 and $69 for the three months ended September 30, 2013 and 2012, respectively. Rent expense totaled $289 and $208 for the nine months ended September 30, 2013 and September 30, 2012, respectively.

MARCUS & MILLICHAP REAL ESTATE INVESTMENT SERVICES, INC. AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(UNAUDITED)
(dollar amounts in thousands, except share amounts)

5. Income Taxes

The Company is part of a consolidated federal income tax return and a combined unitary California tax return that is filed by MMC. The Company and MMC have a tax-sharing agreement whereby the Company provides for income taxes in its consolidated statements of income using an effective tax rate of 43.5%. The amount derived represents a receivable or obligation of the Company from (to) MMC that the Company generally settles on a current basis. In addition, all deferred tax assets and liabilities are recorded by MMC. As part of the IPO, the tax sharing agreement with MMC was terminated effective October 31, 2013. See Note 4 – Related-Party Transactions and Note 9 - Subsequent Events for additional information.

The provision for income taxes attributable to the Company consists of the following:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2013	2012	2013	2012
Federal	$4,910	$4,325	$11,425	$10,060
State	687	606	1,600	1,409
	$5,597	$4,931	$13,025	$11,469

The provision (benefit) for income taxes for the three and nine months ended September 30, 2013 and 2012, differs from the amounts computed by applying the statutory federal corporate income tax rate of 35% to earnings before income taxes as a result of the following:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2013	2012	2013	2012
Computed expected tax expense	$4,504	$3,967	$10,480	$ 9,228
State taxes (net of federal tax effect)	630	555	1,467	1,292
Permanent differences	(15)	(24)	42	(17)
Difference due to tax-sharing rate	478	433	1,036	966
Provision for income taxes	$5,597	$4,931	$13,025	$11,469

6. Fair Value Measurements

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in the principal or most advantageous market for an asset or liability in an orderly transaction between market participants at the measurement date. The hierarchy below lists three levels of fair value based on the extent to which inputs used in measuring fair value are observable in the market. We categorize each of our fair value measurements in one of these three levels based on the lowest level input that is significant to the fair value measurement in its entirety. This hierarchy prioritizes the inputs into three broad levels as follows:

Level 1. Unadjusted quoted prices in active markets that are accessible at the measurement date for identical, unrestricted assets or liabilities;

Level 2. Quoted prices in markets that are not active, or inputs which are observable, either directly or indirectly, for substantially the full term of the asset or liability, or

Level 3. Inputs reflect management's best estimate of what market participants would use in pricing the asset or liability at the measurement date. Consideration is given to the risk inherent in the valuation technique and the risk inherent in the inputs to the model.

MARCUS & MILLICHAP REAL ESTATE INVESTMENT SERVICES, INC. AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(UNAUDITED)
(dollar amounts in thousands, except share amounts)

The fair values of the Company's financial instruments, including such items in the condensed consolidated financial statement captions as cash and cash equivalents, commissions and notes receivable, due from (to) affiliates, accounts payable and accrued expenses, and commissions payable, approximate their carrying values based on their nature, terms, and interest rates, which approximate current fair value market rates and are considered to be in the Level 1 classification.

Investments held in a rabbi trust account are considered to be in the Level 1 classification. See Note 3 – Selected Balance Sheet Data for additional information.

MARCUS & MILLICHAP REAL ESTATE INVESTMENT SERVICES, INC. AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(UNAUDITED)
(dollar amounts in thousands, except share amounts)

7. Restricted Common Stock and Stock Appreciation Rights ("SARs")

Prior to the IPO, the Company granted options and SARs under a stock-based compensation award program (the "Program"). The options were exercisable into shares of unvested restricted common stock. The Program was administered by the board of directors. The board determined the terms of an award, including the amount, number of rights or shares, and vesting period, among others. Options issued generally had terms of one year or less and the restricted common stock issued upon exercise of the options generally vested over three to five years. The exercise price of the options was based upon a formula equivalent to the net book value of common stock as of the end of the fiscal year immediately preceding the date of issuance. The Company had not formally reserved any shares of its common stock for future stock awards under the Program.

In prior years and during the nine months ended September 30, 2013, employees of the Company exercised stock options through the issuance of notes receivable. Cash payments on notes receivable were presented as an increase in consolidated stockholders' equity. Such notes bore interest at a rate of 5% or 6% per annum and were due in defined installments on various remaining dates through April 15, 2016, which was consistent with the vesting periods of the restricted common stock.

There were no redemptions or cancelations of stock options during the three and nine ended September 30, 2013 or September 30, 2012.

The following is a summary of the Company's stock option activity:

	Nine months Ended September 30,			
	2013		2012	
	Shares Under Options	Weighted-Average Exercise Price	Shares Under Options	Weighted-Average Exercise Price
Options outstanding at beginning of period:	750	$ 28.86	3,500	$ 25.67
Exercised	(750)	28.86	(3,500)	25.67
Options outstanding at end of period	—	$ —	—	$ —

The following is a summary of the Company's restricted common stock activity:

	Nine months Ended September 30,			
	2013		2012	
	Restricted Stock	Weighted-Average Grant Date Fair Value	Restricted Stock	Weighted-Average Grant Date Fair Value
Restricted common stock outstanding at beginning of period:	27,999	$ 23.36	24,499	$ 23.36
Issued upon exercise of stock options	750	28.86	3,500	25.67
Restricted common stock outstanding at end of period	28,749	$ 23.76	27,999	$ 23.67
Restricted common stock vested at end of period	26,605		22,682	
Restricted common stock unvested at end of period	2,144		5,317	

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The following is a summary of the Company's SARs activity:

	Nine Months Ended September 30,	
	2013	2012
SARs outstanding at beginning and end of period:	28,733	27,983
SARs vested at end of period	26,589	22,666

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Stock-based Compensation Expense and Deemed Capital Contribution (Distribution) From MMC

Historically, MMC assumed the Company's obligation with respect to any appreciation in the value of the underlying vested awards and SARs in excess of the employees' exercise price. MMC was deemed to make a capital contribution to the Company's additional paid-in capital equal to the amount of compensation expense recorded, net of the applicable taxes. Based on the tax-sharing agreement between the Company and MMC, the tax deduction on the compensation expense recorded by the Company was allocated to MMC. MMC recorded the liability related to the appreciation in the value of the underlying stock and SARs in its consolidated financial statements. To the extent of any depreciation in the value of the underlying vested awards and SARs (limited to the amount of any appreciation previously recorded from the employees' original exercise price), compensation expense was reduced and MMC was deemed to receive a capital distribution.

The total compensation cost related to unvested stock and SARs was generally recognized over approximately four years. Restricted common stock issued upon exercise of stock options was generally vested over three to five years and stock options typically were exercised immediately for a note receivable.

The total formula-settlement value and total compensation cost related to non-vested stock and SARs are as follows:

	Nine Months Ended September 30,	
	2013	2012
Stock	$271	$421
Rights under SARs	$225	$313

During the three months ended September 30, 2013 and 2012, total stock based compensation expense was $2,053 and $1,760, respectively. During the nine months ended September 30, 2013 and 2012, total stock based compensation expense was $4,679 and $3,943, respectively.

The total fair value of stock and SARs that vested during the nine months ended September 30 was as follows:

	Nine Months Ended September 30,	
	2013	2012
Stock	$470	$695
Rights under SARs	$405	$566

In conjunction with the IPO, the vesting of all unvested restricted stock and all unvested SARs was accelerated. See Note 9 - Subsequent Events for additional information.

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8. Stockholder's Equity

Series A Redeemable Preferred Stock

Prior to the IPO, the Company had 1,000 shares of Series A Redeemable Preferred Stock (Series A Preferred) issued and outstanding as of September 30, 2013 and December 31, 2012. The terms are discussed below.

Following the IPO, MMI has 25,000 authorized shares of preferred stock with a par value $0.0001 per share. See Note 9 - Subsequent Events for additional information.

Dividends

Prior to the IPO, the stockholders of Series A Preferred were entitled to receive dividends, payable in preference and priority to any distribution on common stock, at a rate determined by the Board of Directors, when and as declared by the Board of Directors. The right to dividends on the Series A Preferred was not cumulative, and no right accrued to the holders of Series A Preferred by reason of the fact that dividends on such shares were not declared and paid in any prior year, nor are any undeclared or unpaid dividends entitled to bear or accrue interest. No dividends were paid with respect to common stock unless Series A Preferred stockholders received a dividend return in such year in the amount of $10 for each outstanding share of Series A Preferred. To the extent that dividends were declared on any common share, a dividend in an equal amount was to be paid on each outstanding share of Series A Preferred.

Total preferred dividends declared and paid for the nine months ended September 30, 2013 and 2012 were $31,181 and $15,654, respectively. Total preferred dividends declared on the Series A Preferred but not paid for nine months ended September 30, 2013 and 2012 were $6,500, and $0, respectively. No dividends were declared for common stock for the nine months ended September 30, 2013 and 2012. In October 2013, dividends in the amount of $6,500 were paid for Series A Preferred.

Liquidation Preference

In the event of voluntary or involuntary liquidation, the Series A Preferred stockholders were entitled to be paid, before any payment was to be made in respect of the Company's common stock, an amount equal to $10 per share of Series A Preferred plus all accrued but unpaid dividends for each share of Series A Preferred. If, upon liquidation, the assets of the Company available for distribution to its stockholders were insufficient to pay the holders of Series A Preferred, the entire remaining assets of the Company available for distribution would have been distributed ratably among the holders of the Series A Preferred in proportion to the full amount to which they would have otherwise been respectively entitled.

After the payment or setting apart for payment to the holders of the Series A Preferred, the remaining assets and funds of the Company available for distribution to the stockholders would have been distributed among the holders of common stock pro rata on the basis of the number of shares of common stock then outstanding.

Redemption

The Company was permitted to redeem any or all shares of Series A Preferred by paying an amount equal to $10 per share plus all declared and unpaid dividends with respect to such shares at the redemption date. Series A Preferred shares were not convertible into common stock.

Voting Rights

The Series A Preferred stockholders did not have voting rights.

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9. Subsequent Events

Dividends

Prior to the IPO, the Company distributed substantially all of its net income to MMC in the form of cash dividends. Following the IPO, MMI does not intend to pay a regular dividend. We will evaluate our dividend policy in the future. Any declaration and payment of future dividends to holders of MMI common stock will be at the discretion of the board of directors and will depend on many factors, including MMI's financial condition, earnings, cash flows, capital requirements, level of indebtedness, statutory and contractual restrictions applicable to the payment of dividends and other considerations that our board of directors deems relevant.

The Spin-Off and Initial Public Offering

On November 5, 2013, MMI completed its IPO of 6,900,000 shares of common stock at a price to the public of $12.00 per share. MMI sold 4,173,413 shares of common stock in the IPO, including 900,000 shares of common stock pursuant to the exercise of the underwriters' option to purchase additional shares. Selling stockholders sold an aggregate of 2,726,587 shares in the IPO at the same price to the public. MMI did not receive any proceeds from the sale of the shares by the selling stockholders.

The IPO generated net proceeds to MMI of approximately $42,701, including the underwriters' full exercise of their option to purchase additional shares and after deducting the underwriters' discount of $3,506 and IPO related expenses estimated to be $3,874. Prior to the completion of the IPO, the shareholders of MMREIS contributed all of the outstanding shares of capital stock of MMREIS to MMI in exchange for MMI common stock, pursuant to which MMREIS became MMI's wholly owned subsidiary, Thereafter, MMC distributed 80.0% of the shares of MMI common stock to MMC's shareholders and exchanged the remaining portion of its shares of MMI common stock for cancellation of indebtedness.

Following the IPO, MMI has 25,000 authorized shares of preferred stock with a par value $0.0001 per share, none of which are outstanding.

Related Party Transactions

The Company was historically part of a consolidated federal income tax return and a combined unitary California tax return that were filed by MMC. The Company and MMC had a tax-sharing agreement whereby the Company provided for income taxes in its consolidated statements of income using an effective tax rate of 43.5%. As part of the IPO, the Company's tax sharing agreement with MMC was terminated effective October 31, 2013.

The Company will file as a stand-alone tax entity in the future and will account for income taxes under the asset and liability method. Deferred tax assets and liabilities will be recognized for future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases, and for tax losses and tax credit carryforwards, if any. Deferred tax assets and liabilities will be measured using tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled.

As part of the IPO, MMI and MMC entered into a transition services agreement, pursuant to which MMC will provide certain services to the Company for a limited period of time, including, but not limited to, the sharing of costs relating to certain insurance coverages and health plans, legal services and information technology management.

Amendments to Restricted Stock and SARs

In conjunction with the IPO, the vesting of all unvested restricted stock and all unvested SARs was accelerated. The SARs were frozen at the liability amount, calculated as of March 31, 2013, which will be paid out to each participant in installments upon retirement or departure under the terms of the existing program. The frozen SAR account balances will be credited with interest on an annual basis. To replace beneficial ownership in the SARs, the difference between the book value liability and the fair value of the awards was granted to plan participants in the form of deferred stock units, or DSUs, which were fully vested upon receipt and will be settled in actual stock at a rate of 20% per year if the participant remains employed by the Company during that period (or otherwise all unsettled shares of stock upon termination of employment will be settled five years from the termination date). In addition, the formula settlement value of all outstanding shares of stock held by the plan participants was removed, and all such shares of stock will

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be subject to sales restrictions that lapse at a rate of 20% per year for five years if the participant remains employed by the Company. Additionally, in the event of death or termination of employment after reaching the age of 67, 100% of the DSUs will be settled and 100% of the shares of stock will be released from the resale restriction. Further, 100% of the shares of stock will be released from the resale restriction upon the consummation of a change of control of the Company.

The modification, grant of replacement awards and acceleration of vesting of restricted stock and SARs and grants of other stock-based compensation awards pursuant to the 2013 Omnibus Equity Incentive Plan, or the 2013 Plan, are expected to result in non-cash stock-based compensation charges of approximately $30,000 to $35,000 in the fourth quarter of 2013. Following the IPO, grant of replacement awards and future equity award issuances will be recorded by MMI and will no longer result in a deemed capital contribution (distribution) to MMC.

2013 Omnibus Equity Incentive Plan

MMI reserved 5,500,000 shares for future equity awards issuances and 366,667 shares for future issuances under the 2013 Employee Stock Purchase Plan pursuant to the 2013 Plan. In connection with the IPO, MMI issued the following equity awards: (A) DSUs for an aggregate of 2,192,409 shares granted as replacement awards to the MMREIS managing directors, (B) DSUs for 83,333 shares to be granted to Mr. Millichap, and (C) 30,000 shares of restricted stock to the non-employee directors, in each case, based on the IPO price of $12.00.

MMI will recognize equity-based awards expense based upon their grant date fair values on a straight-line basis over the requisite service period, which is generally the vesting period of the awards.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Forward-Looking Statements

The following discussion contains forward-looking statements that involve risks and uncertainties. Our actual results could differ materially from those anticipated in these forward-looking statements as a result of many factors. The results of operations for the three and nine months ended September 30, 2013 are not necessarily indicative of the results that may be expected for the full year ending December 31, 2013, or for any other future period. The following discussion should be read in conjunction with the unaudited condensed consolidated financial statements and the notes thereto included in Item 1 of this Form 10-Q and in conjunction with our Final Prospectus filed pursuant to Rule 424(b)(5) under the Securities Act of 1933, as amended, with the Securities and Exchange Commission October 30, 2013, including the "Risk Factors" section and the consolidated financial statements and notes included therein.

Overview

We are a leading national brokerage firm specializing in commercial real estate investment sales, financing, research and advisory services. We have been the top commercial real estate investment broker in the United States based on the number of investment transactions over the last 10 years, based on data from CoStar and Real Capital Analytics. We have more than 1,100 investment sales and financing professionals in 73 offices who provide investment brokerage and financing services to sellers and buyers of commercial real estate. We also offer market research, consulting and advisory services to our clients. In 2012, we closed more than 6,100 sales and financing transactions with total volume of approximately $22.0 billion. For the three months ended September 30, 2013, we closed more than 1,600 sales, financing and other transactions with total volume of approximately $6.0 billion. For the nine months ended September 30, 2013, we closed more than 4,600 sales, financing and other transactions with total volume of approximately $16.0 billion.

We generate revenues by collecting real estate brokerage commissions upon the sale and fees upon the financing of commercial properties and, in addition, by providing consulting and advisory services. Real estate brokerage commissions are typically based upon the value of the property, and financing fees are typically based upon the size of the loan. In 2012, approximately 91% of our revenues were generated from real estate brokerage commissions, 6% from financing fees and 3% from other fees, including consulting and advisory services. For the three months ended September 30, 2013, approximately 91% of our revenues were generated from real estate brokerage commissions, 6% from financing fees and 3% from other fees, including consulting and advisory services. For the nine months ended September 30, 2013, approximately 90% of our revenues were generated from real estate brokerage commissions, 7% from financing fees and 3% from other fees, including consulting and advisory services.

The Spin-Off and Initial Public Offering

On November 5, 2013, MMI completed its initial public offering (the "IPO") of 6,900,000 shares of common stock at a price to the public of $12.00 per share. MMI sold 4,173,413 shares of common stock in the IPO, including 900,000 shares of common stock pursuant to the exercise of the underwriters' option to purchase additional shares. Selling stockholders sold an aggregate of 2,726,587 shares in the IPO at the same price to the public. MMI did not receive any proceeds from the sale of the shares by the selling stockholders.

The IPO generated net proceeds to MMI of approximately $42.7 million, including the underwriters' full exercise of their option to purchase additional shares and after deducting the underwriters' discount of $3.5 million and IPO related expenses estimated to be $3.9 million. Prior to the completion of the IPO, the shareholders of MMREIS contributed all of the outstanding shares of capital stock of MMREIS to the MMI in exchange for MMI common stock, pursuant to which MMREIS became MMI's wholly owned subsidiary, Thereafter, MMC distributed 80.0% of the shares of MMI common stock to MMC's shareholders and exchanged the remaining portion of its shares of MMI common stock for cancellation of indebtedness.

Factors Affecting Our Business

Our business and our operating results, financial condition and liquidity are significantly affected by the number and size of commercial real estate sales and financing transactions. The number and size of these transactions is affected by our ability to recruit and retain sales and financing professionals and by the general trends in the economy and real estate industry, particularly including:

- *Economic and commercial real estate market conditions.* Our business is dependent on economic conditions and the demand for commercial real estate and related services in the markets in which we operate. Changes in the economy on a national, regional or local basis can have a positive or negative impact on our business. Fluctuations in acquisition and

disposition activity, as well as general commercial real estate investment activity, can impact commissions for arranging such transactions, as well as impacting fees for arranging financing for acquirers and property owners that are seeking to recapitalize their existing properties. In each period discussed, the number of commercial real estate transactions for us has increased.

- *Credit and liquidity in the financial markets.* Since real estate purchases are often financed with debt, credit and liquidity issues in the financial markets have a direct impact on flow of capital to the commercial real estate markets as well as transaction activity and prices. For the periods discussed, credit availability and liquidity were favorable after having been significantly limited in 2008 and 2009.
- *Demand for investment in commercial real estate.* The willingness of private investors to invest in commercial real estate is affected by factors beyond our control, including the performance of real estate assets when compared with the performance of other investments.
- *Fluctuations in interest rates.* Changes in interest rates as well as steady and protracted movements of interest rates in one direction (increases or decreases) could adversely or positively affect the operation and income of commercial real estate properties, as well as the demand from investors for commercial real estate investments. In particular, increased interest rates may cause prices to decrease due to the increased costs of obtaining financing and could lead to decreases in purchase and sale activities, thereby reducing the amounts of investment sales and loan originations. In contrast, decreased interest rates will generally decrease the costs of obtaining financing which could lead to increases in purchase and sales activities. For the periods discussed, interest rates generally remained low and have not fluctuated significantly.

Operating Segments

An operating segment is defined as a component of an enterprise that engages in business activities from which it may earn revenues and incur expenses whose separate financial information is available and is evaluated regularly by our chief operating decision maker, or CODM, to perform resource allocations and performance assessments. Our CODM is our Chief Executive Officer and Chief Financial Officer. Our CODM reviews financial information presented on an office-by-office basis for purposes of making operating decisions, assessing financial performance and allocating resources. Based on the evaluation of our financial information, our management believes that our offices represent individual operating segments with similar economic characteristics that meet the criteria for aggregation into a single reportable segment for financial statement purposes. Our financing operations also represent an individual operating segment, which does not meet the thresholds to be presented as a separate reportable segment.

Key Financial Measures and Indicators

Revenues

Our revenues are primarily generated from our real estate investment sales business. In addition to real estate brokerage commissions, we generate revenues from financing fees and from other revenues, which are primarily comprised of consulting and advisory fees.

- *Real estate brokerage commissions.* We earn real estate brokerage commissions by acting as a broker for commercial real estate owners seeking to sell or investors seeking to buy properties. Revenues from real estate brokerage commissions are recognized at the earlier of the close of escrow or the transfer of title between the seller and buyer.
- *Financing fees.* We earn financing fees by securing financing on purchase transactions as well as by refinancing our clients' existing mortgage debt. We recognize financing fee revenues at the time the loan closes and we have no remaining significant obligations for performance in connection with the transaction.
- *Other revenues.* Other revenues include fees generated from consulting and advisory services performed by our investment sales professionals, as well as referral fees from other real estate brokers. Revenues from these services are recognized as they are performed and completed.

Substantially all of our transactions are success based, with a small percentage including retainer fees (such retainer fees are credited against a success-based fee upon the closing of a transaction) and/or breakage fees. Transactions that are terminated before completion will sometimes generate breakage fees, which are usually calculated as a set amount or a percentage of the fee we would have received had the transaction closed. The amount and timing of all of the fees paid vary by the type of transaction and are generally negotiated on a transaction-by-transaction basis.

Operating Expenses

Our operating expenses consist of cost of services, selling, general and administrative expenses and depreciation and amortization expenses. The significant components of our expenses are further described below.

- *Cost of services.* The majority of our cost of services expense is commission expense. Commission expenses are directly attributable to providing services to our clients for investment sales and mortgage brokerage services. Most of our

transaction professionals are independent contractors and are paid commissions; however, there are some who are initially paid a salary and as such, these expenses also include employee-related compensation, employer taxes and benefits. In addition, some of our most senior investment sales professionals have the ability to earn additional commissions after meeting certain annual revenue thresholds. These additional commissions are recognized as cost of services in the period in which they are earned. Payment of a portion of these additional commissions are deferred for a period of three years and paid at the beginning of the fourth calendar year. Cost of services also includes referral fees paid to other real estate brokers.

- *Selling, general & administrative expenses.* The largest expense component within selling, general and administrative expenses is personnel expenses for our management team and support staff. In addition, these costs include facilities costs (excluding depreciation and amortization), staff related expenses, sales, marketing, legal, telecommunication, network, data sources and other administrative expenses. Also included in selling, general and administrative are expenses related to stock-based compensation to key employees.

  Prior to the IPO, we issued stock options and stock appreciation rights, or SARs, to key employees through a book value, stock-based compensation award program. The program gave certain employees the option to acquire unvested restricted stock and issued an equivalent number of unvested SARs, typically in exchange for a nonrecourse note receivable. Awards under the program typically vested over a three to five-year period, and could be redeemed or repurchased upon the occurrence of certain events, including termination of employment. Compensation expense was recognized over the vesting term based upon the formula settlement value of the awards. See Note 9 - Subsequent Events to the "Notes to the Condensed Consolidated Financial Statements" for additional information.

  As a result of being a public company, our costs for such items as insurance, accounting and legal advice will increase relative to our historical costs for such services. We will also incur costs which we have not previously incurred for directors fees, increased directors and officers insurance, investor relations fees, expenses for compliance with the Sarbanes-Oxley Act and new rules implemented by the Securities and Exchange Commission and the New York Stock Exchange, and various other costs of a public company.

- *Depreciation and amortization expense.* Depreciation and amortization expense consists of depreciation and amortization recorded on our leasehold improvements, furniture, fixture, and equipment assets. Depreciation is provided over estimated useful lives ranging from three to seven years for owned assets or over the lesser of the asset estimated useful lives or the related lease term for leased assets.

Other Income and Expenses, Net

Other income primarily consists of gains or losses, net on our deferred compensation plan assets, interest income and other non-operating gains or losses.

Provision for Income Taxes

For the three and nine months ended September 30, 2013 and 2012, our provision for income taxes was based on a tax-sharing agreement between us and MMC, which stipulated an effective tax rate annual rate of 43.5% and was utilized to compute the our income tax provision (benefit) and the resulting amount due (from) to MMC, which were net of deferred tax assets and liabilities. The tax-sharing agreement with MMC was terminated effective October 31, 2013. We will file as a stand-alone tax entity for tax purposes in the future. When we file as a stand-alone tax entity our future taxable income will be subject to the applicable U.S. federal and state and local tax rates in the jurisdictions in which the taxable income is generated. The change to a stand-alone entity for tax purposes may result in material changes to our income tax provision in future years.

Results of Operations

Following is a discussion of our results of operations for the three and nine months ended September 30, 2013 and 2012. The tables included in the period comparisons below provide summaries of our results of operations. The period-to-period comparisons of financial results are not necessarily indicative of future results.

We regularly review a number of key metrics to evaluate our business, measure our performance, identify trends affecting our business, formulate financial projections and make strategic decisions. Such key metrics include the following:

	Three Months Ended September 30,		Nine Months Ended September 30,	
Real Estate Brokerage Commissions	**2013**	**2012**	**2013**	**2012**
Average Number of Sales Professionals	1,139	985	1,101	977
Average Number of Transactions per Sales Professional	1.0	1.0	2.9	2.8
Average Commission per Transaction	$ 86,749	$ 82,046	$ 80,573	$ 79,335
Average Transaction Size	$ 3,790,048	$ 3,559,733	$ 3,568,151	$ 3,449,256
Total Number of Transactions	1,173	1,007	3,211	2,723
Total Sales Volume (in millions)	$ 4,446	$ 3,585	$ 11,457	$ 9,392

	Three Months Ended September 30,		Nine Months Ended September 30,	
Financing Fees	**2013**	**2012**	**2013**	**2012**
Average Number of Financing Professionals	72	58	69	57
Average Number of Transactions per Financing Professional	4.2	3.7	12.3	10.6
Average Fee per Transaction	$ 22,609	$ 24,276	$ 22,017	$ 22,207
Average Transaction Size	$ 2,381,822	$ 2,435,981	$ 2,224,446	$ 2,294,702
Total Number of Transactions	300	214	848	604
Total Dollar Volume (in millions)	$ 715	$ 521	$ 1,886	$ 1,386

Comparison of Three Months Ended September 30, 2013 and 2012

(Dollars in thousands)	Three Months Ended September 30, 2013	Percentage of Revenue	Three Months Ended September 30, 2012	Percentage of Revenue	Total Dollar Change	Total Percentage Change
Revenues:						
Real estate brokerage commissions	$ 101,757	90.9%	$ 82,620	90.6%	$19,137	23.2%
Financing fees	6,783	6.1	5,195	5.7	1,588	30.6
Other revenues	3,413	3.0	3,413	3.7	0	0.0
Total revenues	111,953	100.0	91,228	100.0	20,725	22.7
Operating expenses:						
Cost of services	67,718	60.5	54,194	59.4	13,524	25.0
Selling, general, and administrative expense	30,863	27.6	25,007	27.4	5,856	23.4
Depreciation and amortization expense	747	0.7	732	0.8	15	2.0
Total operating expenses	99,328	88.8	79,933	87.6	19,395	24.3
Operating income	12,625	11.2	11,295	12.4	1,330	11.8
Other income (expense), net	247	0.2	41	0.0	206	502.4
Income before provision for income taxes	12,872	11.4	11,336	12.4	1,536	13.5
Provision for income taxes	5,597	5.0	4,931	5.4	666	13.5
Net income	$ 7,275	6.4%	$ 6,405	7.0%	$ 870	13.6%
Adjusted EBITDA (1)	$ 15,668	14.0%	$ 13,791	15.1%	$ 1,877	13.6%

(1) Adjusted EBITDA is not a measurement of our financial performance under U.S. GAAP and should not be considered as an alternative to net income, operating income or any other measures derived in accordance with U.S. GAAP. For a definition of Adjusted EBITDA and a reconciliation of Adjusted EBITDA to net income, see "—Non-GAAP Financial Measure."

Revenues.

Our total revenues were $112.0 million for the three months ended September 30, 2013 compared to $91.2 million for the same period in 2012, an increase of $20.7 million, or 22.7%. Total revenues increased primarily as a result of increases in real estate brokerage commissions, which contributed 92.3% of the total increase, as well as increases in financing fees.

- *Real estate brokerage commissions.* Revenues from real estate brokerage commissions increased to $101.8 million for the three months ended September 30, 2013 from $82.6 million for the three months ended September 30, 2012, an increase of $19.1 million or 23.2%. The increase was driven by a combination of a 16.5% increase in the number of investment sales transactions and a 5.7% increase in the average commission size during the three months ended September 30, 2013 as compared to the same period in 2012. The increase in average commission size was primarily due to an increase in the average transaction size.
- *Financing fees.* Revenues from financing fees increased to $6.8 million for the three months ended September 30, 2013 from $5.2 million for the three months ended September 30, 2012, an increase of $1.6 million or 30.6%. The increase was driven by a 40.2% increase in the number of loan transactions due to an increase in the number of financing professionals combined with an increase in their productivity levels, partially offset by a 6.9% decrease in average loan commissions due in part to an increase in the proportion of fees from smaller loan transactions during the three months ended September 30, 2013 as compared to the same period in 2012.
- *Other revenues.* Other revenues were $3.4 million for the three months ended September 30, 2013 and 2012.

Total operating expenses.

Our total operating expenses were $99.3 million for the three months ended September 30, 2013 compared to $79.9 million for the same period in 2012, an increase of $19.4 million, or 24.3%. Expenses increased primarily due to an increase in cost of services, which is primarily commissions paid to our investment sales professionals and compensation-related costs related to our financing activities. Selling, general and administrative costs increased as well, as described below.

- *Cost of services.* Cost of services for the three months ended September 30, 2013 increased approximately $13.5 million, or 25.0% to $67.7 million from $54.2 million for the same period in 2012. The increase was primarily due to increased commission expenses driven by the increased revenues noted above, and to a lesser extent, an increase in referral fees paid to other real estate brokers.
- *Selling, general and administrative expense.* Selling, general and administrative expense for the three months ended September 30, 2013 increased $5.9 million, or 23.4%, to $30.9 million from $25.0 million for the same period in 2012. The increase was primarily due to (i) a $2.5 million increase in legal expenses, driven by higher legal settlement costs combined with lower insurance recoveries in the current quarter as compared to the comparable prior year quarter, (ii) a $2.1 million increase in staff salaries, wages and related benefits expenses driven by an increase in our average headcount to build and support our sales force, including hiring of national and regional specialty directors and sales recruiters and (iii) a $0.7 million increase in other administrative costs primarily due to an increase in professional fees driven by third party consulting service fees in preparation of being a public company.
- *Depreciation and amortization expense.* There were no significant changes in depreciation and amortization expenses for the three months ended September 30, 2013 as compared to the three months ended September 30, 2012.
- *Other income/expense, net.* Other income/expense, net was not significant for the three months ended September 30, 2013 or the three months ended September 30, 2012.

Provision for income taxes. Income tax expense totaled $5.6 million for the three months ended September 30, 2013 as compared to $4.9 million in same period in 2012, an increase of $0.7 million or 13.5%. The increase was attributable to the higher pre-tax income during the three months ended September 30, 2013 as compared to 2012.

During the three months ended September 30, 2013 and 2012, our income tax expense was based on a tax-sharing agreement between us and MMC. As specified by the agreement, our effective tax rate was 43.5% for the three months ended September 30, 2013 and 2012. Subsequent to the completion of the IPO, we anticipate our effective tax rate as a stand-alone tax entity to be approximately 41.0%.

Comparison of Nine Months Ended September 30, 2013 and 2012

(Dollars in thousands)	Nine Months Ended September 30, 2013	Percentage of Revenue	Nine Months Ended September 30, 2012	Percentage of Revenue	Total Dollar Change	Total Percentage Change
Revenues:						
Real estate brokerage commissions	$ 258,720	90.2%	$ 216,029	90.8%	$42,691	19.8%
Financing fees	18,671	6.5	13,413	5.6	5,258	39.2
Other revenues	9,403	3.3	8,636	3.6	767	8.9
Total revenues	286,794	100.0	238,078	100.0	48,716	20.5
Operating expenses:						
Cost of services	170,395	59.4	138,903	58.3	31,492	22.7
Selling, general, and administrative expense	84,687	29.5	70,907	29.8	13,780	19.4
Depreciation and amortization expense	2,261	0.8	2,227	0.9	34	1.5
Total operating expenses	257,343	89.7	212,037	89.0	45,306	21.4
Operating income	29,451	10.3	26,041	11.0	3,410	13.1
Other income (expense), net	496	0.2	324	0.1	172	53.1
Income before provision for income taxes	29,947	10.5	26,365	11.1	3,582	13.6
Provision for income taxes	13,025	4.5	11,469	4.8	1,556	13.6
Net income	$ 16,922	6.0%	$ 14,896	6.3%	$ 2,026	13.6%
Adjusted EBITDA (1)	$ 36,799	12.8%	$ 32,425	13.6%	$ 4,374	13.5%

(1) Adjusted EBITDA is not a measurement of our financial performance under U.S. GAAP and should not be considered as an alternative to net income, operating income or any other measures derived in accordance with U.S. GAAP. For a definition of Adjusted EBITDA and a reconciliation of Adjusted EBITDA to net income, see "—Non-GAAP Financial Measure."

Revenues.

Our total revenues were $286.8 million for the nine months ended September 30, 2013 compared to $238.1 million for the same period in 2012, an increase of $48.7 million, or 20.5%. Total revenues increased primarily as a result of increases in real estate brokerage commissions, which contributed 87.6% of the total increase, as well as increases in financing fees and other revenues. The three months ended March 31, 2013 included the impacts of the fiscal cliff and the associated uncertainty surrounding the potential impacts to the U.S. tax code, which resulted in transactions being accelerated into the three months ended December 31, 2012 that may have otherwise occurred during the first three months of 2013. As a result, we do not expect to see the same level of growth in the three months ended December 31, 2013.

- *Real estate brokerage commissions.* Revenues from real estate brokerage commissions increased to $258.7 million for the nine months ended September 30, 2013 from $216.0 million for the nine months ended September 30, 2012, an increase of $42.7 million or 19.8%. The increase was driven by a 17.9% increase in the number of investment sales transactions as well as a slight increase of 1.6% in the average commission size during the nine months ended September 30, 2013 as compared to the same period in 2012. The increase in average commission size was primarily due to an increase in the average transaction size.
- *Financing fees.* Revenues from financing fees increased to $18.7 million for the nine months ended September 30, 2013 from $13.4 million for the nine months ended September 30, 2012, an increase of $5.3 million or 39.2%. The increase was primarily driven by a 40.4% increase in the number of loan transactions primarily due to an increase in the number of financing professionals combined with an increase in their productivity levels during the nine months ended September 30, 2013 as compared to the same period in 2012.
- *Other revenues.* Other revenues increased to $9.4 million for the nine months ended September 30, 2013 from $8.6 million for the nine months ended September 30, 2012, an increase of $0.8 million or 8.9%. The increase was primarily driven by an increase in fees generated from advisory services during the nine months ended September 30, 2013 as compared to the same period in 2012.

Total operating expenses.

Our total operating expenses were $257.3 million for the nine months ended September 30, 2013 compared to $212.0 million for the same period in 2012, an increase of $45.3 million, or 21.4%. Expenses increased primarily due to an increase in cost of services, which are primarily commissions paid to our investment sales professionals and compensation-related costs related to our financing activities. Selling, general and administrative costs increased as well, as described below.

- *Cost of services.* Cost of services for the nine months ended September 30, 2013 increased approximately $31.5 million, or 22.7% to $170.4 million from $138.9 million for the same period in 2012. The increase was primarily due to increased commission expenses driven by the increased revenues noted above and to a lesser extent, an increase in referral fees paid to other real estate brokers.
- *Selling, general and administrative expense.* Selling, general and administrative expense for the nine months ended September 30, 2013 increased $13.8 million, or 19.4%, to $84.7 million from $70.9 million for the same period in 2012. The increase was primarily due to (i) a $5.8 million increase in staff salaries, wages and related benefits expenses driven by an increase in our average headcount to build and support our sales force, including hiring of national and regional specialty directors and sales recruiters to directly support our more senior agents and increases in stock-based compensation expense, (ii) a $3.7 million increase in legal expenses, driven by higher legal settlement costs combined with lower insurance recoveries during the nine months of 2013 as compared to the comparable prior year period, (iii) a $2.7 million increase in sales promotional expenses, driven by an increase in our annual sales recognition event and increased marketing expenses to support the increased sales. The annual sales recognition event is typically held in the first quarter of the year and the majority of the expenses are incurred and recognized during that period, and (iv) a $1.1 million increase in professional fees primarily driven by an increase in accounting and third party consulting service fees in preparation of being a public company.

- *Depreciation and amortization expense.* There were no significant changes in depreciation and amortization expenses for the nine months ended September 30, 2013 as compared to the nine months ended September 30, 2012.
- *Other income/expense, net.* Other income/expense, net was not significant for the nine months ended September 30, 2013 or the nine months ended September 30, 2012.

Provision for income taxes. Income tax expense totaled $13.0 million for the nine months ended September 30, 2013 as compared to $11.5 million in same period in 2012, an increase of $1.6 million or 13.6%. The increase was attributable to the higher pre-tax income during the nine months ended September 30, 2013 as compared to 2012.

During the nine months ended September 30, 2013 and 2012, our income tax expense was based on a tax-sharing agreement between us and MMC. As specified by the agreement, our effective tax rate was 43.5% for the nine months ended September 30, 2013 and 2012. Subsequent to the completion of the IPO, we anticipate our effective tax rate as a stand-alone tax entity to be approximately 41.0%.

Seasonality

Our real estate brokerage commissions and financing fees are seasonal, which can affect an investor's ability to compare our financial condition and results of operation on a quarter-by-quarter basis. Historically, this seasonality has caused our revenue, operating income, net income and cash flows from operating activities to be lower in the first nine months of the year and higher in the second half of the year, particularly in the fourth quarter. The concentration of earnings and cash flows in the last nine months of the year, particularly in the fourth quarter, is due to an industry-wide focus of clients to complete transactions towards the end of the calendar year. In addition, our operating margins are typically lower during the second half of each year due to our commission structure for some of our senior sales agents. These senior sales agents are on a graduated commission schedule that resets annually in which higher commissions are paid for higher sales volumes.

Non-GAAP Financial Measure

In this Form 10-Q, we include a non-GAAP financial measure, adjusted earnings before interest income/expense, taxes, depreciation and amortization and stock-based compensation, or Adjusted EBITDA. We define Adjusted EBITDA as net income before (i) interest income/expense, (ii) income tax expense, (iii) depreciation and amortization and (iv) stock-based compensation expense. We use Adjusted EBITDA in our business operations to, among other things, evaluate the performance of its business, develop budgets and measure our performance against those budgets. We also believe that analysts and investors use Adjusted EBITDA as supplemental measures to evaluate our overall operating performance. However, Adjusted EBITDA has material limitations as an analytical tool and should not be considered in isolation, or as a substitute for analysis of our results as reported under U.S. GAAP. We find Adjusted EBITDA as a useful tool to assist in evaluating performance because it eliminates items related to capital structure and taxes and non-cash stock-based compensation charges. In light of the foregoing limitations, we do not rely solely on Adjusted EBITDA as a performance measure and also consider our U.S. GAAP results. Adjusted EBITDA is not a measurement of our financial performance under U.S. GAAP and should not be considered as an alternative to net income, operating income or any other measures derived in accordance with U.S. GAAP. Because Adjusted EBITDA is not calculated in the same manner by all companies, it may not be comparable to other similarly titled measures used by other companies.

A reconciliation of Adjusted EBITDA to the most directly comparable GAAP financial measure, net income, is as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
(Dollars in thousands)	2013	2012	2013	2012
Net income	$ 7,275	$ 6,405	$16,922	$14,896
Adjustments:				
Interest income	(4)	(37)	(88)	(110)
Provision for income taxes	5,597	4,931	13,025	11,469
Depreciation and amortization	747	732	2,261	2,227
Stock-based compensation	2,053	1,760	4,679	3,943
Adjusted EBITDA	$15,668	$13,791	$36,799	$32,425

Liquidity and Capital Resources

In connection with our IPO, we received aggregate net proceeds of approximately $42.7 million, including the underwriters' full exercise of their option to purchase additional shares and after deducting the underwriters' discount and IPO related expenses.

Prior to our IPO, our primary sources of liquidity were cash on hand and cash flows from operations. In the future, we intend to fund our operating cash requirements through cash flows from our operating activities and proceeds from our IPO. In addition, we may determine that obtaining debt financing to be advantageous to our business in the future.

The following table sets forth our summary cash flows for the nine months ended September 30, 2013 and 2012 (in thousands):

Cash Flows

(Dollars in thousands)	Nine Months Ended September 30, 2013	2012
Net cash provided by operating activities	$ 62,092	$ 20,524
Net cash used in investing activities	(2,891)	(3,110)
Net cash used in financing activities	(33,629)	(15,723)
Net increase in cash and cash equivalents	25,572	1,691
Cash and cash equivalents at beginning of period	3,107	3,158
Cash and cash equivalents at end of period	$ 28,679	$ 4,849

Prior to June 30, 2013, the majority of the cash generated and used in the Company's operations was held in bank accounts with one financial institution that were included in a sweep arrangement with MMC. Pursuant to a treasury management service agreement with that financial institution, the cash was swept daily into MMC's money market account. The Company collected interest income from MMC at the same interest rate as MMC earned on the money market account. Historically, other than for a 2-week period around MMC's March 31 fiscal year end, the Company had a receivable from MMC for the cash that was swept. When the sweep arrangement was not in effect, during the week before and the week after March 31, the Company's cash balances remained in the Company's bank accounts. As of June 30, 2013, the sweep arrangement with MMC was permanently terminated.

Operating Activities

Cash flows from operating activities were $62.1 million for the nine months ended September 30, 2013, compared to $20.5 million for the nine months ended September 30, 2012. The increase in cash flows from operating activities was primarily due to a $39.2 million increase in net working capital changes and a higher net income of $2.0 million during the nine months ended September 30, 2013 compared to the nine months ended September 30, 2012. The net working capital changes were principally due a $57.6 million increase in due from affiliates primarily driven by the termination of the sweep arrangement discussed above as well as increases in commissions receivable. These increases were partially offset by decreases in commissions payable, accrued employee expenses, and accounts payable and accrued expenses primarily due to timing of payments, including the increase in bonus payments during the nine months ended September 30, 2013 compared to the same period in 2012.

Investing Activities

Cash flows used for investing activities were $2.9 million for the nine months ended September 30, 2013, as compared to $3.1 million for the nine months ended September 30, 2012. The decrease in cash flows used for investing activities for the nine months ended September 30, 2013, as compared to the nine months ended September 30, 2012 was primarily due to a $1.0 increase in employee notes receivable collections, net of issuances, partially offset by a $0.8 increase in investment in information technology, computer equipment and furniture.

Financing Activities

Cash flows used for financing activities were $33.6 million for the nine months ended September 30, 2013, as compared to $15.7 million for the nine months ended September 30, 2012. The increase in cash flows used for financing activities was primarily due to higher dividend payments to MMC during the nine months ended September 30, 2013 as compared to the nine months ended September 30, 2012 and payments of IPO costs during the nine months ended September 30, 2013 with no such comparable costs during the nine months ended September 30, 2012.

Prior to our IPO, we distributed substantially all of our net income to MMC in the form of cash dividends. Following the IPO, we do not intend to pay a regular dividend. We intend to evaluate our dividend policy in the future. Any declaration and payment of future dividends to holders of our common stock will be at the discretion of our board of directors and will depend on many factors, including our financial condition, earnings, cash flows, capital requirements, level of indebtedness, statutory and contractual restrictions applicable to the payment of dividends and other considerations that our board of directors deems relevant.

Contractual Obligations and Commitments

There were no material changes in our commitments under contractual obligations, as disclosed in our Final Prospectus filed pursuant to Rule 424(b)(5) under the Securities Act of 1933, as amended, with the Securities and Exchange Commission on October 31, 2013.

Off Balance Sheet Arrangements

We do not have any off balance sheet arrangements at this time.

Critical Accounting Policies; Use of Estimates

We prepare our financial statements in accordance with U.S. generally accepted accounting principles. In applying many of these accounting principles, we make assumptions, estimates and/or judgments that affect the reported amounts of assets, liabilities, revenues and expenses in our consolidated financial statements. We base our estimates and judgments on historical experience and other assumptions that we believe are reasonable under the circumstances. These assumptions, estimates and/or judgments, however, are often subjective and our actual results may change negatively based on changing circumstances or changes in our analyses. If actual amounts are ultimately different from our estimates, the revisions are included in our results of operations for the period in which the actual amounts become known. There were no material changes in our critical accounting policies, as disclosed in our Final Prospectus filed pursuant to Rule 424(b)(5) under the Securities Act of 1933, as amended, with the Securities and Exchange Commission on October 31, 2013.

Recent Accounting Pronouncements

There have been no new accounting standards applicable to us that have been adopted during the three and nine months ended September 30, 2013.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Our financial instruments, which are exposed to concentrations of credit risk, consist primarily of short-term cash investments. Due to the nature of our business and the manner in which we conduct our operations, we believe we do not face any material interest rate risk, foreign currency exchange rate risk, equity price risk or other market risk.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

As of September 30, 2013, our management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act. Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that, as of September 30, 2013, our disclosure controls and procedures were effective in ensuring that material information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms, including ensuring that such material information is accumulated by and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

Changes in Internal Control over Financial Reporting

There were no changes in our internal control over financial during the quarter ended September 30, 2013 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

We are involved in claims and legal actions arising in the ordinary course of our business. Such litigation and other proceedings may include, but are not limited to, actions relating to intellectual property, commercial relationships, standard brokerage disputes like the alleged failure to disclose physical or environmental defects or property expenses or contracts, the alleged inadequate disclosure of matters relating to the transaction like the relationships among the parties to the transaction, potential claims or losses pertaining to the asset, vicarious liability based upon conduct of individuals or entities outside of our control, general fraud claims, conflicts of interest claims, employment law claims, including claims challenging the classification of our sales professionals as independent contractors, and claims alleging violations of state consumer fraud statutes. While the results of such claims and legal actions cannot be predicted with certainty, we do not believe based on information currently available to us that the final outcome of these proceedings will have a material adverse effect on our consolidated financial position, results of operations or cash flows. We carry standard errors and omissions insurance designed to cover certain acts of broker malpractice.

ITEM 1A. RISK FACTORS

Investing in our common stock involves a high degree of risk. You should carefully consider the risks and uncertainties described in MMI's Final Prospectus filed pursuant to Rule 424(b)(5) under the Securities Act of 1933, as amended, with the Securities and Exchange Commission on October 31, 2013, before deciding whether to invest in our common stock.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

(a) Unregistered Sales of Equity Securities

Not Applicable.

(b) Use of Proceeds

On October 30, 2013, our registration statement on Form S-1 (File No. 333-191316) was declared effective by the SEC for our IPO. On November 5, 2013, we completed our IPO pursuant to which we sold an aggregate of 4,173,413 shares of our common stock at a price to the public of $12.00 per share, including 900,000 shares of common stock pursuant to the exercise of the underwriters' option to purchase additional shares. Selling stockholders in the IPO sold an aggregate of 2,726,587 shares at the same price to the public. We did not receive any proceeds from the sale of the shares by the selling stockholders. Citigroup and Goldman, Sachs & Co. acted as joint book-running managers.

As a result of the IPO, including the underwriters' option to purchase additional shares, we received net proceeds of approximately $42.7 million, after deducting total expenses of approximately $7.4 million, consisting of $3.5 million of underwriters' discounts and commissions and offering related expenses reasonably estimated to be $3.9 million. None of these expenses consisted of direct or indirect payments to any of our directors of officers or their associates, to persons owning 10% or more of our common stock, or to any of our affiliates.

There has been no material change in the planned use of proceeds from our IPO as described in our Final Prospectus filed pursuant to Rule 424(b)(5) under the Securities Act of 1933, as amended, with the Securities and Exchange Commission on October 31, 2013.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

Not Applicable.

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

The documents listed in the Exhibit Index of this quarterly report on Form 10-Q are incorporated by reference or are filed with this quarterly report on Form 10-Q, in each case as indicated therein (numbered in accordance with Item 601 of Regulation S-K).

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SIGNATURES

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

Marcus and Millichap, Inc.

Date: November 22, 2013

By: /s/ John J. Kerin
John J. Kerin
President and Chief Executive Officer

Date: November 22, 2013

By: /s/ Martin E. Louie
Martin E. Louie
Chief Financial Officer

EXHIBIT INDEX

Exhibit No.	Description
3.1*	Amended and Restated Certificate of Incorporation of Marcus & Millichap, Inc., effective November 5, 2013
3.2*	Amended and Restated Bylaws of Marcus & Millichap, Inc., effective November 5, 2013
10.1*	Separation and Distribution Agreement by and between Marcus & Millichap, Inc. and Marcus & Millichap Company dated October 31, 2013
10.2*	Tax Matters Agreement by and between Marcus & Millichap, Inc. and Marcus & Millichap Company dated October 31, 2013
10.3*	Transition Services Agreement by and between Marcus & Millichap, Inc. and Marcus & Millichap Company dated October 31, 2013
31.1*	Certification of Chief Executive Officer pursuant to Rule 13a-14(a) under the Exchange Act, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2*	Certification of Chief Financial Officer pursuant to Rule 13a-14(a) under the Exchange Act, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1*	Certifications of Chief Executive Officer and Chief Financial Officer pursuant to Rule 13a-14(b) under the Exchange Act and 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS**	XBRL Instance Document
101.SCH**	XBRL Taxonomy Extension Schema Document
101.CAL**	XBRL Taxonomy Calculation Linkbase Document
101.DEF**	XBRL Taxonomy Extension Definition Document
101.LAB**	XBRL Taxonomy Label Linkbase Document
101.PRE**	XBRL Taxonomy Presentation Linkbase Document

* Filed herewith.

** The following financial information in the Registrant's Quarterly Report on Form 10-Q for the quarter ended September 30, 2013, is formatted in Extensible Business Reporting Language (XBRL) and electronically submitted herewith: (i) unaudited condensed consolidated balance sheets as of September 30, 2013 and December 31, 2012, (ii) unaudited condensed consolidated statements of operations for the three and nine months ended September 30, 2013 and 2012, (iii) unaudited condensed consolidated statements of stockholders' equity as of September 30, 2013 and December 31, 2012, (iv) unaudited condensed consolidated statements of cash flows for the nine months ended September 30, 2013 and 2012, and (v) notes to unaudited condensed consolidated financial statements. In accordance with Rule 406T of Regulation S-T, such electronically submitted information shall not be deemed to be "filed" for purposes of Section 18 of the Exchange Act, or otherwise subject to the liability of that section, and shall not be part of any registration statement or other document filed under the Securities Act or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

Exhibit 3.1

AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION

OF

MARCUS & MILLICHAP, INC.

The undersigned, John Kerin and Robert Kennis, hereby certify that:

1. They are the duly elected and acting President and Secretary, respectively, of Marcus & Millichap, Inc., a Delaware corporation.

2. The Certificate of Incorporation was originally filed with the Secretary of State of the State of Delaware on June 4, 2013.

3. The Certificate of Incorporation of this corporation shall be amended and restated to read in full as follows:

ARTICLE I

The name of this corporation is Marcus & Millichap, Inc. (the "Corporation").

ARTICLE II

The address of the Corporation's registered office in the State of Delaware is 160 Greentree Drive, Suite 101, in the City of Dover, County of Kent, Zip Code 19904. The name of its registered agent at such address is National Registered Agents, Inc..

ARTICLE III

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the Delaware General Corporation Law Delaware (the "DGCL").

ARTICLE IV

(A) The Corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares which the Corporation is authorized to issue is 175,000,000 shares, consisting of 150,000,000 shares of Common Stock, par value $0.0001 per share, and 25,000,000 shares of Preferred Stock, par value $0.0001 per share.

(B) The Board of Directors is authorized, subject to any limitations prescribed by law, to provide for the issuance of shares of Preferred Stock in series, and by filing a certificate pursuant to the applicable law of the State of Delaware (such certificate being hereinafter referred to as a "Preferred Stock Designation"), to establish from time to time the number of shares to be included in each such series, and to fix the designation, powers, preferences, and rights of the shares of each such series and any qualifications, limitations or restrictions thereof. The number

of authorized shares of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the voting power of all of the then-outstanding shares of capital stock of the Corporation entitled to vote thereon, without a vote of the holders of the Preferred Stock, or of any series thereof, unless a vote of any such holders is required pursuant to the terms of any Preferred Stock Designation.

(C) Unless a vote of any such holders is required pursuant to the terms of any Preferred Stock Designation or the resolution originally fixing the number of shares of any such series, the Board of Directors is further authorized to increase (but not above the total number of authorized shares of the class) or decrease (but not below the number of shares of any such series then outstanding) the number of shares of any series, the number of which was fixed by it, subsequent to the issuance of shares of such series then outstanding, by filing a certificate pursuant to the applicable law of the State of Delaware. If the number of shares of any series is so decreased, then the shares so specified in the certificate shall resume the status which they had prior to the adoption of the resolution originally fixing the number of shares of such series.

(D) Except as otherwise provided by law, each outstanding share of Common Stock shall entitle the holder thereof to one vote on each matter properly submitted to the stockholders of the Corporation for their vote; *provided*, *however*, except as otherwise required by law, holders of Common Stock shall not be entitled to vote on any amendment to this Restated Certificate of Incorporation (including any Preferred Stock Designation relating to any series of Preferred Stock) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together as a class with the holders of one or more other such series, to vote thereon pursuant to this Restated Certificate of Incorporation (including any Preferred Stock Designation relating to any series of Preferred Stock).

ARTICLE V

The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. In addition to the powers and authority expressly conferred upon them by statute or by this Restated Certificate of Incorporation or the Bylaws of the Corporation (the "Bylaws"), the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation.

Subject to the rights of the holders of any series of Preferred Stock to elect additional directors under specified circumstances, the number of directors of the Corporation shall be fixed from time to time exclusively by the Board of Directors pursuant to a resolution adopted by a majority of the Whole Board. For the purposes of this Restated Certificate of Incorporation, "Whole Board" shall mean the total number of authorized directors whether or not there exist any vacancies in previously authorized directorships.

ARTICLE VI

The Board shall be divided into three (3) classes, Class I, Class II and Class III. The Board is authorized to assign members of the Board already in office to Class I, Class II or Class III. Each director shall serve for a term expiring at the third annual meeting following his or her

election; *provided, that*, with respect to the directors serving in the inaugural classes of Class I, Class II and Class III, the terms of the directors serving in Class I shall expire at the Corporation's first annual meeting of stockholders held after the effectiveness of the division of the Board into three (3) classes; the terms of the directors serving in Class II shall expire at the Corporation's second annual meeting of stockholders held after such effectiveness; and the terms of the directors serving in Class III shall expire at the Corporation's third annual meeting of stockholders held after such effectiveness. Each director shall serve until his or her successor is duly elected and qualified or until his or her death, resignation or removal.

Subject to the rights of the holders of any series of Preferred Stock then outstanding, newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the Board of Directors resulting from death, resignation, retirement, disqualification, removal from office or other cause shall, unless otherwise required by law or by resolution of the Board of Directors, be filled only by a majority vote of the directors then in office, though less than a quorum (and not by the stockholders), and directors so chosen shall serve for a term expiring at the annual meeting of stockholders at which the term of office of the class to which they have been elected expires or until such director's successor shall have been duly elected and qualified. No decrease in the number of authorized directors shall shorten the term of any incumbent director.

Subject to the rights of the holders of any series of Preferred Stock then outstanding, any director, or the entire Board of Directors, may be removed from office at any time, but only for cause and only by the affirmative vote of the holders of a majority of the shares then entitled to vote at an election of directors, voting together as a single class.

ARTICLE VII

In the election of directors, each holder of shares of any class or series of capital stock of the Corporation shall be entitled to one vote for each share held. No stockholder will be permitted to cumulate votes at any election of directors.

ARTICLE VIII

Subject to the rights of the holders of any series of Preferred Stock, no action shall be taken by the stockholders of the Corporation other than at an annual or special meeting of the stockholders, upon due notice and in accordance with the provisions of the Bylaws, and no action shall be taken by the stockholders by written consent.

ARTICLE IX

The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Restated Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

ARTICLE X

(A) Notwithstanding any other provision of the Bylaws or any provision of law which might otherwise permit a lesser or no vote, but in addition to any affirmative vote of the holders of any particular class or series of the capital stock of the Corporation required by law, the Bylaws or any Preferred Stock Designation, the Bylaws may be altered, amended or repealed or new Bylaws adopted by the affirmative vote of the holders of at least sixty-six and two-thirds percent (66 2/3)% of the voting power of all of the then-outstanding shares of the voting stock of the Corporation entitled to vote, voting together as a single class. In furtherance and not in limitation of the powers conferred by statute, the Board of Directors of the Corporation is expressly authorized to adopt, amend or repeal Bylaws.

(B) The directors of the Corporation need not be elected by written ballot unless the Bylaws so provide.

(C) Special meetings of the stockholders of the Corporation may be called, at any time by (i) the Board of Directors acting pursuant to a resolution adopted by a majority of the Whole Board, (ii) the chairman of the Board of Directors, (iii) the chief executive officer of the Corporation, or (iv) the president of the Corporation (in the absence of a chief executive officer), and special meetings may not be called by other person or persons.

(D) Advance notice of stockholder nominations for the election of directors or of business to be brought by the stockholders before any meeting of the stockholders of the Corporation shall be given in the manner provided in the Bylaws.

ARTICLE XI

Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws may provide. The books of the Corporation may be kept (subject to any provision contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the Corporation.

ARTICLE XII

(A) To the fullest extent permitted by the DGCL, as the same exists or may be amended from time to time, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. If the DGCL is hereafter amended to authorize corporate action further eliminating or limiting the personal liability of a corporation's directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended.

(B) Any repeal or modification of the foregoing provisions of this Article XII shall not adversely affect any right or protection of a director of the Corporation with respect to any acts or omissions of such director occurring prior to such repeal or modification.

ARTICLE XIII

The Corporation shall have the power to indemnify and/or advance expenses to any person to the fullest extent permitted by law.

ARTICLE XIV

Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for (A) any derivative action or proceeding brought on behalf of the Corporation, (B) any action or proceeding asserting a claim of breach of a fiduciary duty owed by any director or officer of the Corporation to the Corporation or the Corporation's stockholders, (C) any action or proceeding asserting a claim against the Corporation arising pursuant to any provision of the DGCL or the Corporation's Restated Certificate of Incorporation or Bylaws, or (D) any action or proceeding asserting a claim against the Corporation governed by the internal affairs doctrine.

IN WITNESS WHEREOF, this Amended and Restated Certificate of Incorporation has been duly adopted by this Corporation's Board of Directors and stockholders in accordance with Sections 228, 242 and 245 of the DGCL, and has been executed by its duly authorized officers this 5th day of November, 2013.

Marcus & Millichap, Inc.

By: /s/ John Kerin
John Kerin, President

By: /s/ Robert Kennis
Robert Kennis, Secretary

Exhibit 3.2

AMENDED AND RESTATED BYLAWS

OF

MARCUS & MILLICHAP, INC.

(as amended and restated on November 5, 2013)

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AMENDED AND RESTATED BYLAWS

OF

MARCUS & MILLICHAP, INC.

ARTICLE I

CORPORATE OFFICES

1.1 REGISTERED OFFICE.

The registered office of the Corporation shall be fixed in the Corporation's Certificate of Incorporation, as the same may be amended from time to time.

1.2 OTHER OFFICES.

The Board of Directors may at any time establish other offices, and keep the books and records of the Corporation, except as may otherwise be required by law, at any place or places where the Corporation is qualified to do business.

ARTICLE II

MEETINGS OF STOCKHOLDERS

2.1 PLACE OF MEETINGS.

Meetings of stockholders shall be held at any place, within or outside the State of Delaware, designated by the Board of Directors. The Board of Directors may, in its sole discretion, determine that a meeting of stockholders shall not be held at any place, or solely at any place, but may be held by means of remote communication as authorized by the Delaware General Corporation Law (the "DGCL"). In the absence of any such designation, stockholders' meetings shall be held at the registered office of the Corporation.

2.2 ANNUAL MEETING.

(a) The annual meeting of stockholders shall be held each year on a date and at a time designated by resolution of the Board of Directors. The meeting shall be for the election of directors and for the transaction of such business as may properly come before the meeting.

(b) Nominations of persons for election to the Board of Directors of the Corporation and the proposal of business to be considered by the stockholders may be made at an annual meeting of stockholders only (A) pursuant to the Corporation's proxy materials with respect to such meeting (or any supplement thereto), (B) by or at the direction of the Board of Directors or (C) by any stockholder of record (the "Record Stockholder") of the Corporation who is a stockholder of record at the time of giving such notice, who is entitled to vote at the meeting and who complies with the notice procedures set forth in this Section. For the avoidance of

doubt, the foregoing clause (C) shall be the exclusive means for a stockholder to make nominations or propose business (other than business included in the Corporation's proxy materials pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (such act, and the rules and regulations promulgated thereunder, the "Exchange Act")) at an annual meeting of stockholders.

(c) For nominations or other business to be properly brought before an annual meeting by a Record Stockholder pursuant to clause (C) of the foregoing paragraph, the stockholder must have given timely notice thereof in writing to the secretary of the Corporation, such business must be a proper subject for stockholder action, and the Record Stockholder and the beneficial owner, if any, on whose behalf any such proposal or nomination is made, must have acted in accordance with the representations set forth in the Solicitation Statement (as defined below) required by these Bylaws. To be timely, a Record Stockholder's notice shall be received by the secretary at the principal executive offices of the Corporation not less than ninety (90) nor more than one hundred twenty (120) days prior to the one-year anniversary of the preceding year's annual meeting; *provided, however*, that, subject to the last sentence of this Section 2.2(c), in the event that the annual meeting is convened more than thirty (30) days before or after such anniversary date, notice by the Record Stockholder to be timely must be so received not later than the close of business on the later of the ninetieth (90th) day prior to such annual meeting or the tenth (10th) day following the date on which public announcement (as defined below) of the date of such meeting is first made by the Corporation. In no event shall an adjournment, or postponement of an annual meeting for which notice has been given, commence a new time period (or extend any time period) for the giving of a Record Stockholder's notice as described above.

(d) Such Record Stockholder's notice shall set forth:

(A) as to each person whom the Record Stockholder proposes to nominate for election or re-election as a director (1) all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors in a contested election, or is otherwise required, in each case pursuant to and in accordance with Regulation 14A under the Exchange Act, (2) such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected, (3) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships between or among such Record Stockholder and beneficial owner, if any, and their respective affiliates and associates or others acting in concert therewith, on the one hand, and each proposed nominee, and his or her respective affiliates and associates, or others acting in concert therewith, on the other hand, including without limitation all information that would be required to be disclosed pursuant to Item 404 promulgated under Regulation S-K if the stockholder making the nomination and any beneficial owner on whose behalf the nomination is made, if any, or any affiliate or associate thereof or person acting in concert therewith, were the "registrant" for purposes of such rule and the nominee were a director or executive officer of such registrant; and (4) with respect to each nominee for election or reelection to the Board of Directors, include a completed and signed questionnaire, representation and agreement as required by Section 2.4;

(B) as to any business that the Record Stockholder proposes to bring before the meeting, (1) a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend the Bylaws of the Corporation, the language of the proposed amendment), the reasons for conducting such business at the meeting and any interest in such business of the Record Stockholder and the beneficial owner, if any, on whose behalf the proposal is made and (2) a description of all agreements, arrangements, and understandings between such Record Stockholder and beneficial owner, if any, and any other person or persons (including their names) in connection with the proposal of such business by such Record Stockholder;

(C) as to the Record Stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination is made or the business is proposed (each, a "party"):

(1) the name and address of each such party;

(2) (A) the class, series and number of shares of capital stock of the Corporation which are owned, directly or indirectly, beneficially and of record by each such party, (B) any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of shares of the Corporation or with a value derived in whole or in part from the value of any class or series of shares of the Corporation, whether or not such instrument or right shall be subject to settlement in the underlying class or series of capital stock of the Corporation or otherwise (a "Derivative Instrument") directly or indirectly owned beneficially by each such party, and any other direct or indirect opportunity to profit or share in any profit derived from any increase or decrease in the value of shares of the Corporation, (C) any proxy, contract, arrangement, understanding, or relationship pursuant to which either party has a right to vote, directly or indirectly, any shares of any security of the Corporation, (D) any short interest in any security of the Corporation held by each such party (for purposes of this Section 2.2, a person shall be deemed to have a short interest in a security if such person directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has the opportunity to profit or share in any profit derived from any decrease in the value of the subject security), (E) any rights to dividends on the shares of the Corporation owned beneficially directly or indirectly by each such party that are separated or separable from the underlying shares of the Corporation, (F) any proportionate interest in shares of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which either party is a general partner or, directly or indirectly, beneficially owns an interest in a general partner and (G) any performance-related fees (other than an asset-based fee) that each such party is directly or indirectly entitled to based on any increase or decrease in the value of shares of the Corporation or Derivative Instruments, if any, as of the date of such notice, including without limitation any such interests held by members of each such party's immediate family sharing the same household (which information set forth in this paragraph shall be supplemented by such stockholder or such beneficial owner, as the case may be, not later than ten (10) days after the record date for determining the stockholders entitled to notice of the meeting and/or to vote at the meeting to disclose such ownership as of such record date);

(3) any other information relating to each such party that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in a contested election pursuant to Section 14 of the Exchange Act; and

(4) a statement whether or not each such party will deliver a proxy statement and form of proxy to holders of, in the case of a proposal, at least the percentage of voting power of all of the shares of capital stock of the Corporation required under applicable law to carry the proposal or, in the case of a nomination or nominations, at least the percentage of voting power of all of the shares of capital stock of the Corporation reasonably believed by the Record Stockholder or beneficial holder, as the case may be, to be sufficient to elect the nominee or nominees proposed to be nominated by the Record Stockholder (such statement, a "Solicitation Statement").

(e) The Corporation may require any proposed nominee to furnish such other information as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as a director of the Corporation, including information relevant to a determination whether such proposed nominee can be considered an independent director.

(f) Notwithstanding anything in the second sentence of Section 2.2(c) of this Bylaw to the contrary, in the event that the number of directors to be elected to the Board of Directors is increased and there is no public announcement by the Corporation naming all of the nominees for director or specifying the size of the increased Board of Directors at least one hundred (100) days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required by this Bylaw shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the secretary at the principal executive offices of the Corporation not later than the close of business on the tenth (10th) day following the day on which such public announcement is first made by the Corporation.

(g) Only such persons who are nominated in accordance with the procedures set forth in this Bylaw shall be eligible to serve as directors and only such business shall be conducted at an annual meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in these Bylaws. The chairman of the meeting shall determine whether a nomination or any business proposed to be transacted by the stockholders has been properly brought before the meeting and, if any proposed nomination or business has not been properly brought before the meeting, the chairman shall declare that such proposed business or nomination shall not be presented for stockholder action at the meeting.

(h) Only such persons who are nominated in accordance with the procedures set forth in this Bylaw shall be eligible to serve as directors and only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in these Bylaws. The chairman of the meeting shall determine whether a nomination or any business proposed to be transacted by the stockholders has been properly brought before the meeting and, if any proposed nomination or business has not been properly brought before the meeting, the chairman shall declare that such proposed business or nomination shall not be presented for stockholder action at the meeting.

(i) Notwithstanding the foregoing provisions of this Section 2.3, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to matters set forth in this Section 2.3. Nothing in this Section 2.3 shall be deemed to affect any rights (A) of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act or (B) of the Corporation to omit a proposal from the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

2.3 SPECIAL MEETING.

(a) A special meeting of the stockholders, other than those required by statute, may be called at any time by the Board of Directors acting pursuant to a resolution adopted by a majority of the Whole Board (for purposes of these Bylaws, the term "Whole Board" shall mean the total number of authorized directors whether or not there exist any vacancies in previously authorized directorships), the chairman of the Board of Directors and the chief executive officer and special meetings may not be called by any other person or persons. The Board of Directors may postpone or reschedule any previously scheduled special meeting.

(b) Only such business shall be conducted at a special meeting of stockholders as shall be stated in the notice of the special meeting. The notice of a special meeting shall include the purpose for which the meeting is called. Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting (A) by or at the direction of the Board of Directors or (B) provided that the Board of Directors has determined that directors shall be elected at such meeting, by any Record Stockholder who is entitled to vote at the meeting and upon such election and who delivers a written notice to the secretary setting forth the information set forth in Section 2.2(d)(A) and (C). Nominations by Record Stockholders of persons for election to the Board of Directors may be made at such a special meeting of stockholders only if such Record Stockholder's notice required by the preceding sentence shall be received by the secretary at the principal executive offices of the Corporation not earlier than the close of business on the one hundred twentieth (120th) day prior to the date of such special meeting and later than the close of business on the later of the ninetieth (90th) day prior to the date of such special meeting or, if the first public announcement of the date of such special meeting is less than one hundred (100) days prior to the date of such special meeting, the tenth (10th) day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. In no event shall an adjournment, or postponement of a special meeting for which notice has been given, commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(c) Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting by or at the direction of the Board of Directors. The notice of such special meeting shall include the purpose for which the meeting is called.

(d) Notwithstanding the foregoing provisions of this Section 2.3, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to matters set forth in this Section 2.3. Nothing in this Section 2.3 shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

2.4 SUBMISSION OF QUESTIONNAIRE, REPRESENTATION AND AGREEMENT.

To be eligible to be a nominee for election or reelection as a director of the Corporation, a person must deliver (in accordance with the time periods prescribed for delivery of notice under Sections 2.2 and 2.3 of these Bylaws) to the secretary at the principal executive offices of the Corporation a written questionnaire with respect to the background and qualification of such person and the background of any other person or entity on whose behalf the nomination is being made (which questionnaire shall be provided by the secretary upon written request) and a written representation and agreement (in the form provided by the secretary upon request) that such person (a) is not and will not become a party to (A) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the Corporation, will act or vote on any issue or question (a "Voting Commitment") that has not been disclosed to the Corporation or (B) any Voting Commitment that could limit or interfere with such person's ability to comply, if elected as a director of the Corporation, with such person's fiduciary duties under applicable law, (b) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed therein, and (c) in such person's individual capacity and on behalf of any person or entity on whose behalf the nomination is being made, would be in compliance, if elected as a director of the Corporation, and will comply with all applicable publicly disclosed corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines of the Corporation.

2.5 NOTICE OF STOCKHOLDERS' MEETINGS.

Notice of the place, if any, date, and time of all meetings of the stockholders, the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting, and the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting, shall be given, not less than ten (10) nor more than sixty (60) days before the date on which the meeting is to be held, to each stockholder entitled to vote at such meeting as of the record date for determining the stockholders entitled to notice of the meeting, except as otherwise provided herein or required by law (meaning, here and hereinafter, as required from time to time by the DGCL or the Certificate of Incorporation of the Corporation).

When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place, if any, thereof, and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken; provided, however, that if the date of any adjourned meeting is more than thirty (30) days after the date for which the meeting was originally noticed, notice of the place, if any, date, and time

of the adjourned meeting and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting, shall be given to each stockholder in conformity herewith. If after the adjournment a new record date for stockholders entitled to vote is fixed for the adjourned meeting, notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting. At any adjourned meeting, any business may be transacted which might have been transacted at the original meeting.

2.6 QUORUM.

At any meeting of stockholders, the holders of a majority of the voting power of all issued and outstanding stock entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum for the transaction of business, except to the extent that the presence of a larger number may be required by law or the rules of any stock exchange upon which the Corporation's securities are listed. Where a separate vote by a class or classes or series is required, a majority of the outstanding voting power of such class or classes or series, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to such matter. If a quorum is not present or represented at any meeting of stockholders, then the chairman of the meeting or the holders of a majority of the voting power entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting from time to time in accordance with Section 2.5.

2.7 ORGANIZATION.

Such person as the Board of Directors may have designated or, in the absence of such a person, the chairman of the Board of Directors or, in his or her absence, the president of the Corporation or, in his or her absence, such person as may be chosen by the holders of a majority of the shares entitled to vote at any meeting of stockholders, present, in person or represented by proxy, shall call to order any meeting of the stockholders and act as chairman of the meeting. In the absence of the secretary of the Corporation, the secretary of the meeting shall be such person as the chairman of the meeting appoints.

2.8 CONDUCT OF BUSINESS.

The chairman of any meeting of stockholders shall determine the order of business and the procedure at the meeting, including the manner of voting and the conduct of business. The chairman shall have the power to adjourn the meeting to another place, if any, date and time. The date and time of the opening and closing of the polls for each matter upon which the stockholders will vote at the meeting shall be announced at the meeting.

2.9 VOTING.

(a) Except as may be otherwise provided in the Certificate of Incorporation or by law, each stockholder shall be entitled to one vote for each share of capital stock held by such stockholder.

(b) All elections shall be determined by a plurality of the votes cast, and except as otherwise required by law or the rules of any stock exchange upon which the Corporation's securities are listed, all other matters shall be determined by a majority of the votes cast affirmatively or negatively.

2.10 STOCKHOLDER ACTION BY WRITTEN CONSENT WITHOUT A MEETING

Subject to the rights of the holders of the shares of any series of preferred stock, any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of stockholders of the Corporation and may not be effected by any consent in writing by such stockholders.

2.11 WAIVER OF NOTICE.

Whenever notice is required to be given under any provision of the DGCL or of the Certificate of Incorporation or these Bylaws to a stockholder, a written waiver thereof, signed by the person entitled to notice, whether before or after the time of the event for which notice is to be given, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders need be specified in any written waiver of notice unless so required by the Certificate of Incorporation or these Bylaws.

2.12 RECORD DATE FOR STOCKHOLDER NOTICE; VOTING.

In order that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board of Directors may, except as otherwise required by law, fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than sixty (60) nor less than ten (10) days before the date of such meeting. If the Board of Directors so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board of Directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of and to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance with the foregoing provisions of this Section at the adjourned meeting.

In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders

entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than sixty (60) days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

2.13 PROXIES.

Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder by a proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. A stockholder may authorize such person or persons to act for such stockholder as proxy by written proxy signed by the stockholder and filed with the secretary of the Corporation or such other means deemed valid pursuant to the provisions of Section 212 of the DGCL. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Section 212(e) of the DGCL.

ARTICLE III

DIRECTORS

3.1 POWERS.

Subject to the provisions of the DGCL and any limitations in the Certificate of Incorporation or these Bylaws relating to action required to be approved by the stockholders or by the outstanding shares, the business and affairs of the Corporation shall be managed and all corporate powers shall be exercised by or under the direction of the Board of Directors.

3.2 NUMBER OF DIRECTORS.

Subject to the rights of the holders of any series of preferred stock to elect directors under specified circumstances, the number of directors shall be fixed from time to time exclusively by the Board of Directors pursuant to a resolution adopted by a majority of the Whole Board.

3.3 ELECTION, QUALIFICATION AND TERM OF OFFICE OF DIRECTORS.

The Board shall be divided into three (3) classes, Class I, Class II and Class III, effective at the same time that the stockholders appoint and elect directors to the inaugural classes of Class I, Class II and Class III. Each director shall serve for a term expiring at the third annual meeting following his or her election; *provided, that*, with respect to the directors serving in the inaugural classes of Class I, Class II and Class III, the terms of the directors serving in Class I shall expire at the Corporation's first annual meeting of stockholders held after the effectiveness of the division of the Board into three (3) classes; the terms of the directors serving in Class II shall expire at the Corporation's second annual meeting of stockholders held after such effectiveness; and the terms of the directors serving in Class III shall expire at the Corporation's third annual meeting of stockholders held after such effectiveness.

3.4 RESIGNATION AND VACANCIES.

Subject to the rights of the holders of any series of preferred stock then outstanding, newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the Board of Directors resulting from death, resignation, retirement, disqualification, removal from office or other cause shall, unless otherwise required by law or by resolution of the Board of Directors, be filled only by a majority vote of the directors then in office, though less than a quorum (and not by the stockholders), and directors so chosen shall serve for a term expiring at the annual meeting of stockholders at which the term of office of the class to which they have been elected expires or until such director's successor shall have been duly elected and qualified. No decrease in the number of authorized directors shall shorten the term of any incumbent director.

3.5 PLACE OF MEETINGS; MEETINGS BY TELEPHONE.

The Board of Directors of the Corporation may hold meetings, both regular and special, either within or outside the State of Delaware, at such place which has been designated in the notice of the meeting or, if not stated in the notice or if there is no notice, then such meeting shall be held at the principal executive office of the Corporation or such other place determined by the Board of Directors. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, members of the Board of Directors, or any committee designated by the Board of Directors, may participate in a meeting of the Board of Directors, or any committee, by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

3.6 REGULAR MEETINGS.

Regular meetings of the Board of Directors may be held without notice at such time and at such place as shall from time to time be determined by the Board of Directors.

3.7 SPECIAL MEETINGS; NOTICE.

Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the chairman of the Board of Directors, the president, any vice president, the secretary or any two directors.

Notice of the time and place of special meetings shall be (i) delivered personally by courier or telephone to each director, (ii) sent by first-class mail, postage prepaid, (iii) sent by facsimile, or (iv) by electronic mail, directed to each director at that director's address, telephone number, facsimile number or electronic mail address as it is shown on the records of the Corporation. If the notice is mailed, it shall be deposited in the United States mail at least four (4) days before the time of the holding of the meeting. If the notice is (i) delivered personally by hand, by courier or by telephone, (ii) sent by facsimile or (iii) sent by electronic mail, it shall be delivered at least twenty-four (24) hours before the time of the holding of the meeting, or on such

shorter notice as the person or persons calling such meeting may deem necessary and appropriate in the circumstances. Any oral notice given personally or by telephone may be communicated either to the director or to a person at the office of the director who the person giving the notice has reason to believe will promptly communicate it to the director. Notice of any meeting need not be given to any director who shall, either before or after the meeting, submit a waiver of such notice or who shall attend such meeting except attendance for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened. The notice need not specify the purpose of the meeting, and unless otherwise indicated in the notice thereof, any and all business may be transacted at a special meeting.

3.8 QUORUM AND VOTING.

At all meetings of the Board of Directors, a majority of the Whole Board shall constitute a quorum for the transaction of business and the vote of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by law or by the Certificate of Incorporation. If a quorum is not present at any meeting of the Board of Directors, then the majority of directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

3.9 WAIVER OF NOTICE.

Whenever notice is required to be given under any provision of the DGCL or of the Certificate of Incorporation or these Bylaws to a director, a written waiver thereof, signed by the person entitled to notice, whether before or after the time of the event for which notice is to be given, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the directors, or members of a committee of directors, need be specified in any written waiver of notice unless so required by the Certificate of Incorporation or these Bylaws.

3.10 BOARD ACTION BY WRITTEN CONSENT WITHOUT A MEETING

Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting if all members of the Board of Directors or committee, as the case may be, consent thereto in writing or by electronic transmission and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board of Directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

3.11 FEES AND COMPENSATION OF DIRECTORS.

Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, the Board of Directors shall have the authority to fix the compensation of directors. No such compensation shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

3.12 REMOVAL OF DIRECTORS.

Unless otherwise restricted by law, by the Certificate of Incorporation or by these Bylaws, any director or the entire Board of Directors may be removed, but only for cause, by the holders of a majority of the shares then entitled to vote at an election of directors.

No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of such director's term of office.

3.13 CHAIRMAN OF THE BOARD OF DIRECTORS.

The Corporation may also have, at the discretion of the Board of Directors, a chairman of the Board of Directors.

3.14 EMERGENCY BYLAWS.

To the fullest extent permitted by law, in the event of any emergency, disaster or catastrophe, as referred to in Section 110 of the DGCL, or other similar emergency condition, the Board of Directors may adopt emergency bylaws.

ARTICLE IV

COMMITTEES

4.1 COMMITTEES OF DIRECTORS.

The Board of Directors may, by resolution passed by a majority of the Whole Board, designate one or more committees, with each committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board of Directors or in the Bylaws of the Corporation, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers that may require it; but no such committee shall have the power or authority to (a) approve or adopt or recommend any action or matter (other than election or removal of directors) expressly required by the DGCL to be submitted to stockholders or (b) amend the Bylaws of the Corporation.

4.2 COMMITTEE MINUTES.

Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors when required.

4.3 MEETINGS AND ACTION OF COMMITTEES.

Each committee may determine the procedural rules for meeting and conducting its business and shall act in accordance therewith, except as otherwise provided herein or required by law. Adequate provision shall be made for notice to members of all meetings; a majority of the members shall constitute a quorum unless the committee shall consist of one or two members, in which event one member shall constitute a quorum; and all matters shall be determined by a majority vote of the members present. Action may be taken by any committee without a meeting if all members thereof consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of the proceedings of such committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

ARTICLE V

OFFICERS

5.1 OFFICERS.

The officers of the Corporation shall be a chief executive officer, a president, a secretary, and a chief financial officer. The Corporation may also have, at the discretion of the Board of Directors, one or more vice presidents, one or more assistant secretaries, one or more assistant treasurers, and any such other officers as may be appointed in accordance with the provisions of Section 5.3 of these Bylaws. Any number of offices may be held by the same person.

5.2 APPOINTMENT OF OFFICERS.

The officers of the Corporation, except such officers as may be appointed in accordance with the provisions of Sections 5.3 or 5.5 of these Bylaws, shall be appointed by the Board of Directors, subject to the rights, if any, of an officer under any contract of employment.

5.3 SUBORDINATE OFFICERS.

The Board of Directors may appoint, or empower the chief executive officer or the president to appoint, such other officers and agents as the business of the Corporation may require, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in these Bylaws or as the Board of Directors may from time to time determine.

5.4 REMOVAL AND RESIGNATION OF OFFICERS.

Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, either with or without cause, by an affirmative vote of the majority of the Board of Directors or, except in the case of an officer chosen by the Board of Directors, by any officer upon whom such power of removal may be conferred by the Board of Directors.

Any officer may resign at any time by giving written notice to the attention of the secretary of the Corporation. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Corporation under any contract to which the officer is a party.

5.5 VACANCIES IN OFFICES.

Any vacancy occurring in any office of the Corporation shall be filled by the Board of Directors.

5.6 CHIEF EXECUTIVE OFFICER.

Subject to such supervisory powers, if any, as may be given by the Board of Directors to the chairman of the board, if any, the chief executive officer of the Corporation shall, subject to the control of the Board of Directors, have general supervision, direction, and control of the business and the officers of the Corporation. He or she shall preside at all meetings of the stockholders and, in the absence or nonexistence of a chairman of the board, at all meetings of the Board of Directors and shall have the general powers and duties of management usually vested in the office of chief executive officer of a corporation and shall have such other powers and duties as may be prescribed or delegated by the Board of Directors or these Bylaws.

5.7 PRESIDENT.

Subject to such supervisory powers, if any, as may be given by the Board of Directors to the chairman of the board (if any) or the chief executive officer, the president shall have general supervision, direction, and control of the business and other officers of the Corporation. He or she shall have the general powers and duties of management usually vested in the office of president of a corporation and such other powers and duties as may be prescribed or delegated by the Board of Directors or these Bylaws.

5.8 VICE PRESIDENTS.

In the absence or disability of the chief executive officer and president, the vice presidents, if any, in order of their rank as fixed by the Board of Directors or, if not ranked, a vice president designated by the Board of Directors, shall perform all the duties of the president and when so acting shall have all the powers of, and be subject to all the restrictions upon, the president. The vice presidents shall have such other powers and perform such other duties as from time to time may be prescribed or delegated to them respectively by the Board of Directors, these Bylaws, the president or the chairman of the board.

5.9 SECRETARY.

The secretary shall keep or cause to be kept, at the principal executive office of the Corporation or such other place as the Board of Directors may direct, a book of minutes of all meetings and actions of directors, committees of directors, and stockholders. The minutes shall show the time and place of each meeting, the names of those present at directors' meetings or committee meetings, the number of shares present or represented at stockholders' meetings, and the proceedings thereof.

The secretary shall keep, or cause to be kept, at the principal executive office of the Corporation or at the office of the Corporation's transfer agent or registrar, as determined by resolution of the Board Of Directors, a share register, or a duplicate share register, showing the names of all stockholders and their addresses, the number and classes of shares held by each, the number and date of certificates evidencing such shares, and the number and date of cancellation of every certificate surrendered for cancellation.

The secretary shall give, or cause to be given, notice of all meetings of the stockholders and of the Board of Directors required to be given by law or by these Bylaws. He or she shall keep the seal of the Corporation, if one be adopted, in safe custody and shall have such other powers and perform such other duties as may be prescribed or delegated by the Board of Directors or by these Bylaws.

5.10 CHIEF FINANCIAL OFFICER.

The chief financial officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of the Corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital retained earnings, and shares. The books of account shall at all reasonable times be open to inspection by any director.

The chief financial officer shall deposit all moneys and other valuables in the name and to the credit of the Corporation with such depositories as may be designated by the Board of Directors. He or she shall disburse the funds of the Corporation as may be ordered by the Board of Directors, shall render to the president, the chief executive officer, or the directors, upon request, an account of all his or her transactions as chief financial officer and of the financial condition of the Corporation, and shall have other powers and perform such other duties as may be prescribed or delegated by the Board of Directors or the Bylaws.

5.11 REPRESENTATION OF SHARES OF OTHER CORPORATIONS.

The chairman of the board, the chief executive officer, the president, any vice president, the chief financial officer, the secretary or assistant secretary of this Corporation, or any other person authorized by the Board of Directors or the chief executive officer or the president or a vice president, is authorized to vote, represent, and exercise on behalf of this Corporation all rights incident to any and all shares of any other corporation or corporations held

by this Corporation. The authority granted herein may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by the person having such authority.

5.12 AUTHORITY AND DUTIES OF OFFICERS.

In addition to the foregoing authority and duties, all officers of the Corporation shall respectively have such authority and perform such duties in the management of the business of the Corporation as may be designated or delegated from time to time by the Board of Directors.

ARTICLE VI

INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND OTHER AGENTS

6.1 RIGHT TO INDEMNIFICATION.

Each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she or a person of whom he or she is the legal representative is or was a director or an officer of the Corporation or is or was serving (during such person's tenure as director or officer) at the request of the Corporation as a director, officer or trustee of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan (hereinafter an "indemnitee"), whether the basis of such proceeding is alleged action in an official capacity as a director, officer or trustee or in any other capacity while serving as a director, officer or trustee, shall be indemnified and held harmless by the Corporation to the fullest extent permitted by Delaware law, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than such law permitted the Corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid in settlement) reasonably incurred or suffered by such indemnitee in connection therewith; provided, however, that, except as provided in Section 6.3 of this Article VI with respect to proceedings to enforce rights to indemnification, the Corporation shall indemnify any such indemnitee in connection with a proceeding (or part thereof) initiated by such indemnitee only if such proceeding (or part thereof) was authorized by the Board of Directors of the Corporation.

6.2 POWER TO ADVANCE EXPENSES.

The Corporation shall have the power to advance expenses to any person to the fullest extent permitted by law.

6.3 RIGHT OF INDEMNITEE TO BRING SUIT.

If a claim under Section 6.1 of this Article VI is not paid in full by the Corporation within ninety (90) days after a written claim has been received by the Corporation, the indemnitee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. To the fullest extent permitted by law, if successful in whole or in part in any such suit, the indemnitee shall be entitled to be paid also the expense of prosecuting or defending such suit. In any suit brought by the indemnitee to enforce a right to indemnification hereunder it shall be a defense that the indemnitee has not met any applicable standard for indemnification set forth in the DGCL. Neither the failure of the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such suit that indemnification of the indemnitee is proper in the circumstances because the indemnitee has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel, or its stockholders) that the indemnitee has not met such applicable standard of conduct, shall create a presumption that the indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by the indemnitee, be a defense to such suit. In any suit brought by the indemnitee to enforce a right to indemnification hereunder, the burden of proving that the indemnitee is not entitled to be indemnified, under this Article VI or otherwise shall be on the Corporation.

6.4 NON-EXCLUSIVITY OF RIGHTS.

The rights to indemnification conferred in this Article VI shall not be exclusive of any other right which any person may have or hereafter acquire under any law, the Corporation's Certificate of Incorporation, Bylaws, agreement, vote of stockholders or directors or otherwise.

6.5 INSURANCE.

The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL.

6.6 INDEMNIFICATION OF EMPLOYEES AND AGENTS OF THE CORPORATION.

The Corporation may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification and to the advancement of expenses to any employee or agent of the Corporation to the fullest extent permitted by law.

6.7 NATURE OF RIGHTS.

(a) The rights conferred upon indemnitees in this Article VI shall be contract rights and such rights shall continue as to an indemnitee who has ceased to be a director, officer or trustee and shall inure to the benefit of the indemnitee's heirs, executors and administrators.

Any amendment, alteration or repeal of this Article VI that adversely affects any right of an indemnitee or its successors shall be prospective only and shall not limit, eliminate, or impair any such right with respect to any proceeding involving any occurrence or alleged occurrence of any action or omission to act that took place prior to such amendment or repeal.

ARTICLE VII

RECORDS AND REPORTS

7.1 MAINTENANCE OF RECORDS; STOCKLIST.

The Corporation shall, either at its principal executive offices or at such place or places as designated by the Board of Directors, keep a record of its stockholders listing their names and addresses and the number and class of shares held by each stockholder, a copy of these Bylaws as amended to date, accounting books, and other records.

The officer who has charge of the stock ledger of the Corporation shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting; *provided, however*, if the record date for determining the stockholders entitled to vote is less than ten (10) days before the meeting date, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder for any purpose germane to the meeting for a period of at least ten (10) days prior to the meeting: (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the Corporation's principal place of business. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be examined by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting. Such list shall presumptively determine the identity of the stockholders entitled to vote at the meeting and the number of shares held by each of them.

ARTICLE VIII

GENERAL MATTERS

8.1 CHECKS.

From time to time, the Board of Directors shall determine by resolution which person or persons may sign or endorse all checks, drafts, other orders for payment of money, notes or other evidences of indebtedness that are issued in the name of or payable to the Corporation, and only the persons so authorized shall sign or endorse those instruments.

8.2 EXECUTION OF CORPORATE CONTRACTS AND INSTRUMENTS.

The Board of Directors, except as otherwise provided in these Bylaws, may authorize any officer or officers, or agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the Corporation; such authority may be general or confined to specific instances. Unless so authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

8.3 STOCK CERTIFICATES.

The shares of the Corporation shall be represented by certificates, provided that the Board of Directors of the Corporation may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation. Each holder of stock represented by certificates shall be entitled to a certificate signed by, or in the name of the Corporation by, the chairman or vice chairman of the Board of Directors, or the president or a vice president, and by the secretary or an assistant secretary of the Corporation, certifying the number of shares owned by him or her. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he or she were such officer, transfer agent or registrar at the date of issue. Notwithstanding any other provision in these Bylaws, the Corporation may adopt a system of issuance, recordation and transfer of shares of the Corporation by electronic or other means not involving any issuance of certificates, including provisions for notice to purchasers in substitution for any required statements on certificates, and as may be required by applicable corporate securities laws, which system has been approved by the Securities and Exchange Commission. Any system so adopted shall not become effective as to issued and outstanding certificated securities until the certificates therefor have been surrendered to the Corporation.

8.4 LOST, STOLEN OR DESTROYED CERTIFICATES.

Except as provided in this Section 8.4, no new certificates for shares shall be issued to replace a previously issued certificate unless the latter is surrendered to the Corporation and canceled at the same time. The Corporation may issue a new certificate of stock or uncertificated shares in the place of any certificate previously issued by it, alleged to have been lost, stolen or destroyed, and the Corporation may require the owner of the lost, stolen or destroyed certificate, or the owner's legal representative, to give the Corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.

8.5 CONSTRUCTION; DEFINITIONS.

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the DGCL shall govern the construction of these Bylaws. Without limiting the generality of this provision, the masculine gender includes the feminine and neuter, the singular number includes the plural, the plural number includes the singular, and the term "person" includes both a corporation and a natural person.

8.6 DIVIDENDS.

The directors of the Corporation, subject to any restrictions contained in (a) the DGCL or (b) the Certificate of Incorporation, may declare and pay dividends upon the shares of its capital stock. Dividends may be paid in cash, in property, or in shares of the Corporation's capital stock.

The directors of the Corporation may set apart out of any of the funds of the Corporation available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve. Such purposes shall include but not be limited to equalizing dividends, repairing or maintaining any property of the Corporation, and meeting contingencies.

8.7 FISCAL YEAR.

The fiscal year of the Corporation shall be fixed by resolution of the Board of Directors and may be changed by the Board of Directors.

8.8 SEAL.

The Corporation may adopt a corporate seal, which may be altered at pleasure, and may use the same by causing it or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

8.9 TRANSFER OF STOCK.

Upon surrender to the Corporation or the transfer agent of the Corporation of a certificate for shares, if one has been issued, duly endorsed or accompanied by proper evidence of succession, assignation or authority to transfer, it shall be the duty of the Corporation to issue a new certificate to the person entitled thereto, cancel the old certificate, and record the transaction in its books.

8.10 REGISTERED STOCKHOLDERS.

The Corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends and to vote as such owner, shall be entitled to hold liable for calls and assessments the person registered on its books as the owner of shares, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of another person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

8.11 TIME PERIODS.

In applying any provision of these Bylaws which requires that an act be done or not be done a specified number of days prior to an event or that an act be done during a period of a specified number of days prior to an event, calendar days shall be used, the day of the doing of the act shall be excluded, and the date of the event shall be included.

ARTICLE IX

NOTICE BY ELECTRONIC TRANSMISSION

9.1 NOTICE BY ELECTRONIC TRANSMISSION.

Without limiting the manner by which notice otherwise may be given effectively to stockholders pursuant to the DGCL, the Certificate of Incorporation or these Bylaws, any notice shall be effective if given by a form of electronic transmission in the manner provided in Section 232 of the DGCL.

ARTICLE X

AMENDMENTS

10.1 POWER OF STOCKHOLDERS.

New Bylaws may be adopted or these Bylaws may be amended or repealed by the affirmative vote of the holders of at least sixty-six and two-thirds percent (66 2/3)% of the voting power entitled to vote generally in the election of directors, except as otherwise provided by law or by the Certificate of Incorporation.

10.2 POWER OF DIRECTORS.

Subject to the right of stockholders as provided in Section 10.1 to adopt, amend or repeal Bylaws, any Bylaw may be adopted, amended or repealed by the Board of Directors. A Bylaw amendment adopted by stockholders which specifies the votes that shall be necessary for the election of directors shall not be further amended or repealed by the Board of Directors.

Exhibit 10.1

SEPARATION AND DISTRIBUTION AGREEMENT
BETWEEN
MARCUS & MILLICHAP COMPANY
AND
MARCUS & MILLICHAP, INC.

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SEPARATION AND DISTRIBUTION AGREEMENT

THIS SEPARATION AND DISTRIBUTION AGREEMENT, dated as of October 31, 2013, is by and between MARCUS & MILLICHAP COMPANY, a California corporation ("MMC") and MARCUS & MILLICHAP, INC., a Delaware corporation (the "Company"). Capitalized terms used herein and not otherwise defined shall have the respective meanings assigned to them in Article I hereof.

R E C I T A L S

WHEREAS, the Board of Directors of MMC (the "MMC Board") has determined that it is in the best interests of MMC and its stockholders to separate the business of Marcus & Millichap Real Estate Investment Services, Inc. (the "MMREIS") from the other businesses conducted by MMC and its Subsidiaries;

WHEREAS, in furtherance of the foregoing, on October 30, 2013 (the "Contribution Date"), MMC and the other stockholders of MMREIS transferred the capital stock and equity interests of MMREIS to the Company and, in exchange therefor, the Company issued to MMC and other stockholders of MMREIS shares of Company Common Stock;

WHEREAS, MMC will transfer shares of Company Common Stock to certain Persons (the "Debt-for-Equity Exchange Parties") in exchange for certain debt obligations of MMC held by the Debt-for-Equity Exchange Parties as principals for their own account (the "Debt-for-Equity Exchange") and the Debt-for-Equity Exchange Parties will make an offer and sale to the public of shares of Company Common Stock transferred in the Debt-for-Equity Exchange and the Company will offer, issue and sell shares of Company Common Stock, which will take place pursuant to a registration statement on Form S-1 (the "IPO");

WHEREAS, prior to the IPO, MMC will transfer shares of Company Common Stock to holders of shares of MMC capital stock by means of a distribution by MMC to holders of MMC capital stock of shares of Company Common Stock (the "Distribution");

WHEREAS, MMC has received a private letter ruling from the U.S. Internal Revenue Service substantially to the effect that, among other things, the Contribution (as defined below) and the Distribution, taken together, will qualify as a transaction that is tax-free for U.S. federal income tax purposes under Section 355 and 368(a)(1)(D) and related sections of the Code (the "Private Letter Ruling");

WHEREAS, for U.S. federal income tax purposes, the Contribution and Distribution, if effected, taken together, are intended to qualify as a tax-free spin-off under Section 355 and Section 368(a)(1)(D) of the Code;

WHEREAS, this Agreement is intended to be a "plan of reorganization" within the meaning of Treas. Reg. Section 1.368-2(g); and

WHEREAS, it is appropriate and desirable to set forth the principal corporate transactions required to effect the Contribution, the Debt-for-Equity Exchange, the Distribution and the IPO, and certain other agreements that will govern certain matters relating thereto (collectively, the "Transactions"), and the relationship of MMC, the Company and their respective Subsidiaries following the IPO.

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained in this Agreement, the parties, intending to be legally bound, hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Certain Definitions. For the purpose of this Agreement the following terms shall have the following meanings:

"Action" means any demand, action, suit, countersuit, arbitration, inquiry, proceeding or investigation by or before any federal, state, local, foreign or international Governmental Authority or any arbitration or mediation tribunal.

"Affiliate" of any Person means a Person that controls, is controlled by, or is under common control with such Person. As used herein, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, whether through ownership of voting securities or other interests, by contract or otherwise. It is expressly agreed that, from and after the Effective Date, solely for purposes of this Agreement (1) no member of the Company Group shall be deemed to be an Affiliate of any member of the MMC Group and (2) no member of the MMC Group shall be deemed to be an Affiliate of any member of the Company Group.

"Agreement" means this Separation and Distribution Agreement.

"Ancillary Agreements" means the Transition Services Agreement, the Tax Matters Agreement and other agreements related thereto.

"Assets" means assets, properties, claims and rights (including goodwill), wherever located (including in the possession of vendors or other third parties or elsewhere), of every kind, character and description, whether real, personal or mixed, tangible, intangible or contingent, in each case whether or not recorded or reflected or required to be recorded or reflected on the books and records or financial statements of any Person.

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

"Commission" means the U.S. Securities and Exchange Commission.

"Company" has the meaning set forth in the preamble hereto.

"Company Accounts" has the meaning set forth in Section 2.07(a).

"Company Board" means the Board of Directors of the Company.

"Company Books and Records" means originals or true and complete copies thereof, including electronic copies (if available), of (a) all minute books, corporate charters and bylaws or comparable constitutive documents, records of share issuances and related corporate records of each member of the Company Group, (b) all books and records exclusively relating to (i) the purchase of materials, supplies and services for the MMREIS Business and (ii) dealings with customers of the MMREIS Business and (c) all files relating exclusively to any Action with respect to which is an MMREIS Liability.

"Company Common Stock" shall mean the Common Stock, $0.0001 par value per share, of the Company.

"Company Group" means the Company, MMREIS and Marcus & Millichap Capital Corporation ("MMCC"), and each other Person that either (x) is controlled directly or indirectly by the Company immediately after the Effective Date or (y) becomes controlled by the Company following the Effective Date.

"Company Indemnitees" has the meaning set forth in Section 4.03.

"Contract" means any written or oral commitment, contract, subcontract, agreement, lease, sublease, license, understanding, sales order, purchase order, instrument, indenture, note or other commitment that is binding on any Person or any part of its property under applicable Law.

"Contribution" has the meaning set forth in Section 2.01(a).

"Contribution Agreement" means the Contribution Agreement, dated as of October 30, 2013, by and between the stockholders of MMREIS and the Company.

"Contribution Date" has the meaning set forth in the recitals.

"Coverage End Date" has the meaning set forth in Section 2.09(a).

"Covered Claims" has the meaning set forth in Section 2.09(b).

"Debt-for-Equity Exchange" has the meaning set forth in the recitals.

"Debt-for-Equity Exchange Agreement" means the exchange agreement to be entered into among MMC, the Debt-for-Equity Exchange Parties and the Company with respect to the Debt-for-Equity Exchange.

"Debt-for-Equity Exchange Parties" has the meaning set forth in the recitals.

"Disclosing Party" has the meaning set forth in Section 6.09(a).

"Disclosure Documents" shall mean any form, statement, schedule or other material filed with or furnished to the Commission or any other Governmental Authority by or on behalf of any party or any of its controlled Affiliates, and also any information statement, prospectus, offering memorandum, offering circular or similar disclosure document (including in connection with the IPO) and any schedule thereto or document incorporated therein by reference, whether or not filed with or furnished to the Commission or any other Governmental Authority.

"Distribution" has the meaning set forth in the recitals.

"Distribution Date" the date upon which MMC distributes its shares of Company Common Stock pursuant to the Distribution.

"Effective Date" means the date of the closing of the IPO.

"Equity Underwriters" means the underwriters for the IPO.

"Equity Underwriting Agreement" means the underwriting agreement to be entered into among the Debt-for-Equity Exchange Parties, the other selling stockholders party thereto, the Equity Underwriters, the Company and MMC with respect to the IPO.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, together with the rules and regulations promulgated thereunder.

"Excluded Liabilities" shall mean: (i) any and all Liabilities that are (A) expressly contemplated by this Agreement or any Ancillary Agreement (or any other schedule hereto or thereto) as Liabilities to be retained or assumed by MMC or any other Person in the MMC Group, and all agreements and obligations of any Person in the MMC Group under this Agreement or any of the Ancillary Agreements or (B) listed or described on Schedule 1.01(a).

"Governmental Authority" means any nation or government, any state, municipality or other political subdivision thereof, and any entity, body, agency, commission, department, board, bureau, court, tribunal or other instrumentality, whether federal, state, local, domestic, foreign or multinational, exercising executive, legislative, judicial, regulatory, administrative or other similar functions of, or pertaining to, government and any executive official thereof.

"Group" means either the Company Group or the MMC Group, as the context requires.

"Indebtedness" of any Person means (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid, (d) all obligations of such Person under conditional sale or other title retention agreements relating to property or assets purchased by such Person, (e) all obligations of such Person issued or assumed as the deferred purchase price of property or services, (f) all indebtedness of others secured by (or for which the holder of such indebtedness has an existing right, contingent or otherwise, to be secured by) any mortgage, lien, pledge, or other encumbrance on property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed, (g) all guarantees by such Person of indebtedness of others, (h) all capital lease obligations of such Person and (i) all securities or other similar instruments convertible or exchangeable into any of the foregoing, but excluding daily cash overdrafts associated with routine cash operations.

"Indemnifying Party" has the meaning set forth in Section 4.04(a).

"Indemnitee" has the meaning set forth in Section 4.04(a).

"Indemnity Payment" has the meaning set forth in Section 4.04(a).

"Information" means information in written, oral, electronic or other tangible or intangible forms, stored in any medium, including studies, reports, records, books, Contracts, instruments, surveys, discoveries, ideas, concepts, know-how, techniques, designs, specifications, drawings, blueprints, diagrams, models, prototypes, samples, flow charts, data, computer data, disks, diskettes, tapes, computer programs or other software, marketing plans, customer names, communications by or to attorneys (including attorney-client privileged communications), memoranda and other materials prepared by attorneys or under their direction (including attorney work product), and other technical, financial, employee or business information or data but excluding the Company Books and Records and the MMC Books and Records.

"Insurance Proceeds" means those monies:

(a) received by an insured from a third party insurance carrier;

(b) paid by a third party insurance carrier on behalf of the insured; or

(c) received (including by way of setoff) from any third party in the nature of insurance, contribution or indemnification in respect of any Liability;

in each such case net of any applicable premium adjustments (including reserves and retrospectively rated premium adjustments) and net of any costs or expenses incurred in the collection thereof and excluding, for the avoidance of doubt, proceeds from any self-insurance, captive insurance or similar program.

"Intercompany Accounts" has the meaning set forth in Section 2.06(a).

"IPO" has the meaning set forth in the recitals.

"IPO Registration Statement" means the registration statement on Form S-l (File No. 333-) filed under the Securities Act, pursuant to which the Company Common Stock to be issued in the IPO will be registered, together with all amendments thereto (including post-effective amendments and registration statements filed pursuant to Rule 462(b) under the Securities Act).

"Law" means any United States or non-United States federal, national, supranational, state, provincial, local or similar law (including common law), statute, ordinance, regulation, rule, code, order, treaty, license, permit, authorization, registration, approval, consent, decree, injunction, judgment, notice of liability, request for information, binding judicial or administrative interpretation or other requirement, in each case, enacted, promulgated, issued, entered or otherwise put into effect by a Governmental Authority.

"Liabilities" means any and all indebtedness, claims, debts, Taxes, liabilities, demands, causes of actions, Actions and obligations, whether accrued, fixed or contingent, mature or inchoate, known or unknown, reflected on a balance sheet or otherwise, including, without limitation, those arising under any Law, Action or any judgment of any court of any kind or any award of any arbitrator of any kind, and those arising under any Contract, commitment or undertaking.

"Lien" means any mortgage, security interest, pledge, lien, charge, claim, option, right to acquire, voting or other restriction, right-of-way, covenant, condition, easement, encroachment, restriction on transfer, or other encumbrance of any nature whatsoever.

"Losses" means any and all damages, losses, deficiencies, Liabilities, Taxes, obligations, penalties, judgments, settlements, claims, payments, fines, charges, interest, costs and expenses, whether or not resulting from third party claims, including the costs and expenses of any and all Actions and demands, assessments, judgments, settlements and compromises relating thereto and the costs and expenses of attorneys', accountants', consultants' and other professionals' fees and expenses incurred in the investigation or defense thereof or the enforcement of rights hereunder.

"MMC" has the meaning set forth in the preamble hereto.

"MMC Accounts" has the meaning set forth in Section 2.05(a).

"MMC Board" has the meaning set forth in the recitals.

"MMC Books and Records" means originals or true and complete copies thereof, including electronic copies (if available) of (a) minute books, corporate charters and bylaws or comparable constitutive documents, records of share issuances and related corporate records, of the MMC Group; (b) all books and records relating to (i) MMC Employees, (ii) the purchase of materials, supplies and services for the MMC Business and (iii) dealings with customers of the MMC Business; and (c) all files relating to any Action with respect to which the Liability is a Retained Liability.

"MMC Business" means any business or operations of the MMC Group (whether conducted independently or in association with one or more third parties through a partnership, joint venture or other mutual enterprise) other than MMREIS Business.

"MMC Class A Common Stock" means the Class A Voting Common Stock, no par value, of MMC.

"MMC Class B Common Stock" means the Class B non-voting common stock, no par value, of MMC.

"MMC Group" means MMC, each other Subsidiary of MMC involved in the Transactions and each other Person that either (x) is controlled directly or indirectly by MMC immediately after the Effective Date or (y) becomes controlled by MMC following the Effective Date; provided, however, that neither the Company nor any other member of the Company Group shall be members of the MMC Group.

"MMC Indemnitees" has the meaning set forth in Section 4.02.

"MMREIS Business" means the commercial real estate brokerage business of MMREIS, including Marcus & Millichap Capital Corporation and any other direct or indirect Subsidiaries, as conducted as of the Effective Date.

"MMREIS Common Stock" shall mean the Common Stock, $1.00 par value per share, of MMREIS.

"MMREIS Liabilities" shall mean: (i) any and all Liabilities that are (A) expressly contemplated by this Agreement or any Ancillary Agreement (or any other schedules hereto or thereto) as Liabilities to be retained, assumed or retired by the Company or any Person in the Company Group, and all agreements, obligations and Liabilities of any Person in the Company Group under this Agreement, or any of the Ancillary Agreements or (B) listed or described on Schedule 1.01(b); and (ii) any and all Liabilities to the extent relating to, arising out of or resulting from the MMREIS Business.

"MMREIS Preferred Stock" shall mean the Series A Redeemable Preferred Stock, $10.00 par value per share, of MMREIS.

"Person" means an individual, a general or limited partnership, a corporation, a trust, a joint venture, an unincorporated organization, a limited liability entity, any other entity and any Governmental Authority.

"Policies" or "Policy" shall mean insurance policies and insurance contracts of any kind, including primary, excess and umbrella, comprehensive general liability, directors and officers, automobile, products, workers' compensation, employee dishonesty, property and crime insurance policies and self-insurance and captive insurance company arrangements, together with the rights, benefits and privileges thereunder.

"Private Letter Ruling" has the meaning set forth in the recitals.

"Privilege" has the meaning set forth in Section 6.11(a).

"Receiving Party" has the meaning set forth in Section 6.09(a).

"Retained Names" means the Trademarks set forth on Schedule 1.01(c), and any trademarks related thereto or containing or comprising the foregoing, including any trademarks derivative thereof or confusingly similar thereto.

"Record Date" means October 31, 2013, or such other date as is designated by MMC's Board of Directors as the record date for determining the shareholders of MMC entitled to receive the Distribution.

"Securities Act" means the Securities Act of 1933, as amended, together with the rules and regulations promulgated thereunder.

"Services" has the meaning set forth in the Transition Services Agreement.

"Shared Policies" shall mean Policies in existence prior to the Effective Date where both the MMREIS Business and the MMC Business are eligible for coverage and/or where the employees, directors or agents of both the MMREIS Business and the MMC Business are eligible for coverage.

"Subsidiary" means, when used with respect to any Person, (a) a corporation in which such Person or one or more Subsidiaries of such Person, directly or indirectly, owns capital stock having a majority of the total voting power in the election of directors of all outstanding shares of all classes and series of capital stock of such corporation entitled generally to vote in such election; and (b) any other Person (other than a corporation) in which such Person or one or more Subsidiaries of such Person, directly or indirectly, has (i) a majority ownership interest or (ii) the power to elect or direct the election of a majority of the members of the governing body of such first-named Person.

"Tax Matters Agreement" means the Tax Matters Agreement, dated as of the Effective Date, by and between MMC and the Company.

"Tax Records" has the meaning set forth in the Tax Matters Agreement.

"Taxes" has the meaning set forth in the Tax Matters Agreement.

"Third Party Claim" has the meaning set forth in Section 4.05(a).

"Transactions" has the meaning set forth in the recitals.

"Transition Services Agreement" means the Transition Services Agreement, dated as of the Effective Date, by and between MMC and the Company.

ARTICLE II

THE SEPARATION AND DISTRIBUTION

Section 2.01. Transfer of Equity Interests in MMREIS. Pursuant to the Contribution Agreement, on the Contribution Date, MMC transferred 1,000 shares of MMREIS Preferred Stock and 205,740 shares of MMREIS Common Stock and the other stockholders of MMREIS transferred 28,749 shares of MMREIS Common Stock (the "Contribution"). The shares so transferred represented all of the issued and outstanding shares of MMREIS Common Stock. In exchange for the Contribution, the Company issued to the former shareholders of MMREIS 32,357,901 shares of Company Common Stock.

Section 2.02. Cooperation Prior to the Distribution. Prior to the Distribution,

(a) MMC and the Company shall take all such action as may be necessary or appropriate under the securities or blue sky laws of states or other political subdivisions of the United States in connection with the transactions contemplated by this Agreement or any Ancillary Agreement.

(b) MMC and the Company shall take all actions which may be required to elect or otherwise appoint as directors of the Company, on or prior to the Distribution Date, the persons named in the IPO Registration Statement to constitute the Board of Directors of the Company on the Distribution Date.

(c) MMC and the Company shall take all actions as may be necessary to approve the stock-based employee benefit plans of the Company in order to satisfy the requirements of Rule 16b-3 under the Exchange Act and any requirements of the NYSE.

Section 2.03. MMC Board Action; Conditions Precedent to the Distribution. MMC's Board of Directors shall, in its sole discretion, establish the Record Date and the Distribution Date and any appropriate procedures in connection with the Distribution; *provided, however,* in no event shall the Distribution occur unless the following conditions shall have been satisfied or shall have been waived by MMC's Board of Directors in its sole discretion:

(a) all material regulatory approvals necessary to consummate the Distribution shall have been received and be in full force and effect;

(b) the IPO Registration Statement shall have become effective under the Securities Act, and no stop order or similar Commission proceeding shall be in effect with respect to such IPO Registration Statement;

(c) a private letter ruling from the Internal Revenue Service that, among other things, the Contribution and the Distribution, taken together, will not be taxable to the shareholders of MMC pursuant to Section 355 of the Code, shall continue in effect, and such ruling shall be in form and substance satisfactory to MMC in its sole discretion;

(d) no order, injunction or decree issued by any court or agency of competent jurisdiction or other legal restraint or prohibition preventing consummation of the Distribution shall be in effect and no other event shall have occurred or failed to occur that prevents consummation of the Distribution; and

(e) MMC's Board of Directors shall have formally approved the Distribution,

provided, however, that satisfaction of such conditions shall not create any obligation on the part of MMC, the Company or any other person to effect or seek to effect the Distribution or in any way limit MMC's right to terminate this Agreement as set forth in Section 8.01 or alter the consequences of any such termination from those set forth in Section 8.02.

Section 2.04. The Distribution. On or before the Distribution Date, subject to satisfaction or waiver of the conditions set forth in this Agreement, MMC shall transfer to American Stock Transfer & Trust Company, LLC (the "Distribution Agent"), all of the then outstanding shares of Company Common Stock held by MMC other than the shares of Company Common Stock to be delivered to the Debt-for-Equity Exchange Parties, and shall instruct the Distribution Agent to distribute, or make book-entry credits for, 162.18101 shares of Company Common Stock in respect of every one share of MMC Class A Common Stock or MMC Class B Common Stock held by holders of record of

MMC Class A Common Stock and MMC Class B Common Stock on the Record Date, as set forth on Schedule 1. The Company agrees to provide all certificates for shares of Company Common Stock and any information relating to the Company that the Distribution Agent shall require in order to effect the Distribution.

Section 2.05. Transfers Not Effected on or Prior to the Contribution Date; Transfers Deemed Effective as of the Effective Date To the extent that any transfers of Assets (including the capital stock or equity interests of any transferred entity) or assumptions of Liabilities contemplated by this Article II shall not have been consummated on, at or prior to the Contribution Date because a condition precedent to any such transfer had not been satisfied or any relevant fact related thereto had not been realized, the parties shall cooperate to effect such transfers or assumptions, as the case may be, as promptly following the Effective Date as shall be practicable. In the event that any transfer of Assets or assumption of Liabilities contemplated by this Agreement has not been consummated at or prior to the Contribution Date, then from and after the Contribution Date (i) the party (or relevant member in its Group) retaining such Asset shall thereafter hold (or shall cause such member in its Group to hold) such Asset for the use and benefit of the party (or relevant member in its Group) entitled thereto (at the expense of the Person entitled thereto) and (ii) the party intended to assume such Liability shall, or shall cause the applicable member of its Group to, pay or reimburse the party (or the relevant member of its Group) retaining such Liability for all amounts paid or incurred in connection with the retention of such Liability. In addition, the party retaining such Asset or Liability (or relevant member of its Group) shall (or shall cause such member in its Group to) treat, insofar as reasonably possible and to the extent permitted by applicable Law, such Asset or Liability in the ordinary course of business in accordance with past practice and take such other actions as may be reasonably requested by the party to which such Asset or Liability is to be transferred or assumed in order to place such party, insofar as reasonably possible, in the same position as if such Asset or Liability had been transferred or assumed on or prior to the Contribution Date as contemplated hereby and so that all the benefits and burdens relating to such Asset or Liability, including possession, use, risk of loss, potential for gain, and dominion, control and command over such Asset or Liability, are to inure from and after the Contribution Date to the relevant member of the MMC Group or the Company Group, as the case may be, entitled to the receipt of such Asset or Liability. In furtherance of the foregoing, the parties agree that, as of the Effective Date, each party shall be deemed to have acquired complete and sole beneficial ownership over all of the Assets, together with all rights, powers and privileges incident thereto, and shall be deemed to have assumed in accordance with the terms of this Agreement all of the Liabilities, and all duties, obligations and responsibilities incident thereto, which such party is entitled to acquire or required to assume pursuant to the terms of this Agreement or, as applicable, an Ancillary Agreement.

Section 2.06. Termination of Agreements.

(a) Except as set forth in Section 2.06(b), in furtherance of the releases and other provisions of Section 4.01 hereof, the Company and each Person in the Company Group, on the one hand, and MMC and each Person in the MMC Group, on the other hand, hereby terminate any and all agreements, arrangements, commitments or understandings (including all intercompany accounts payable or accounts receivable between a member of the MMC Group, on the one hand, and a member of the Company Group, on the other hand ("Intercompany Accounts") accrued as of the Effective Date, other than ordinary course accounts payable and accounts receivable, which shall not be terminated), whether or not in writing, between or among the

Company and any Person in the Company Group, on the one hand, and MMC and any Person in the MMC Group, on the other hand, effective as of the Effective Date. No such terminated agreement, arrangement, commitment, understanding or Intercompany Account (including any provision thereof which purports to survive termination) shall be of any further force or effect after the Effective Date. Each party shall, at the reasonable request of any other party, take, or cause to be taken, such other actions as may be necessary to effect the foregoing.

(b) The provisions of Section 2.06(a) shall not apply to any of the following agreements, arrangements, commitments, understandings or Intercompany Accounts (or to any of the provisions thereof): (i) this Agreement and the Ancillary Agreements (and each other agreement or instrument expressly contemplated by this Agreement or any Ancillary Agreement to be entered into by any of the parties hereto or any Person in their respective Groups); (ii) any agreements, arrangements, commitments or understandings set forth or described on Schedule 2.06(b); (iii) any agreements, arrangements, commitments or understandings to which any Person other than the parties hereto and their respective Affiliates is a party; and (iv) any other agreements, arrangements, commitments, understandings or Intercompany Accounts that this Agreement or any Ancillary Agreement expressly contemplates will survive the Effective Date.

Section 2.07. Bank Accounts; Cash Balances.

(a) To the extent not completed prior to the Effective Date, MMC and the Company each agrees to take, or cause the respective members of their respective Groups to take, at or prior to the Effective Date, all actions necessary to amend all Contracts governing each bank and brokerage account owned by the Company or any other member of the Company Group (collectively, the "Company Accounts") so that such Company Accounts, if linked (whether by automatic withdrawal, automatic deposit or any other authorization to transfer funds from or to, hereinafter "linked") to any bank or brokerage account owned by MMC or any other member of the MMC Group (collectively, the "MMC Accounts") are de-linked from the MMC Accounts.

(b) It is intended that, following consummation of the actions contemplated by Section 2.07(a), the Company and MMC will maintain separate bank accounts and separate cash management processes.

(c) With respect to any outstanding checks issued by MMC, the Company, or any of their respective Subsidiaries prior to the Effective Date, such outstanding checks shall be honored following the Effective Date by the Person or Group owning the account on which the check is drawn.

(d) Except as provided in Section 2.09, as between MMC and the Company (and the members of their respective Groups), all payments made and reimbursements received after the Effective Date by either party (or member of its Group) that relate to a business, Asset or Liability of the other party (or member of its Group), shall be held by such party in trust for the use and benefit of the party entitled thereto and, promptly upon receipt by such party of any such payment or reimbursement, such party shall pay over, or shall cause the applicable member of its Group to pay over to the other party the amount of such payment or reimbursement without right of set-off.

Section 2.08. Other Ancillary Agreements. Each of MMC and the Company will execute and deliver, and cause each of their applicable Subsidiaries to execute and deliver, as applicable, all Ancillary Agreements to which it is a party.

Section 2.09. Insurance Policies.

(a) On or before the Effective Date, the directors and officers of the Company and its Affiliates shall become insureds under a separate directors' and officers' insurance program to be established by the Company at its expense. Effective from and after the date at which the Company is no longer eligible to be covered under the policies of MMC and its affiliates (the "Coverage End Date"), the Company shall arrange for its own insurance policies with respect to the MMREIS Business, except as set forth in the Transition Service Agreement.

(b) Where Shared Policies with an unaffiliated third party insurer (and excluding, for the avoidance of doubt, any self-insurance, captive insurance or similar program) cover MMREIS Liabilities reported after the Effective Date and before the Coverage End Date, with respect to an occurrence prior to the Coverage End Date, under an occurrence-based or claims-made policy (collectively, "Covered Claims"), then the members of the Company Group may claim coverage for such Covered Claims under such Shared Policies, control the prosecution and defense of such Covered Claims and receive any insurance recoverables with respect thereto, without any prejudice or limitation to MMC seeking insurance under the Shared Policies for its own claims. After the Effective Date, MMC shall procure and administer the Shared Policies, provided that such administration shall in no way limit, inhibit or preclude the right of the members of the Company Group to insurance coverage thereunder in accordance with this Section 2.09(b), in each case, with respect to Covered Claims. The Company shall promptly notify MMC of any Covered Claims, and MMC agrees to reasonably cooperate with the Company concerning the pursuit by the Company of any such Covered Claim, in each case at the expense of the Company (to the extent such expenses are not covered by the applicable Shared Policies).

(c) The Company shall be responsible for complying with terms of the Shared Policies to obtain coverage for such Covered Claims, including if the Shared Policy requires any payments to be made in connection therewith (including self-insured retentions or deductibles), and the Company shall make any such required payments and maintain any required or appropriate accruals or reserves for such Covered Claims. Any proceeds received by MMC from any insurance carrier that relate to Covered Claims shall be paid promptly to the Company. In the event that Covered Claims relate to the same occurrence for which MMC is seeking coverage under such Shared Policies and for which the parties have a shared defense, the Company and MMC shall jointly defend any such claim and waive any conflict of interest necessary to conduct a joint defense, and shall bear any expenses in connection therewith equally (to the extent such expenses are not covered by the applicable Shared Policies), including self-insured retentions or deductibles. In the event that policy limits under an applicable Shared Policy are not sufficient to fund all claims of MMC and members of the MMC Group and the Company and members of the Company Group, amounts due under such Shared Policy shall be paid on a first come first served basis, and any amounts simultaneously due shall be paid to the respective entities in proportion to the assessed value of each respective entity's claim or claims.

ARTICLE III

THE IPO AND ACTIONS PENDING THE IPO; OTHER TRANSACTIONS

Section 3.01. The Debt-for-Equity Exchange. The Company shall cooperate with, and take all actions reasonably requested by, MMC and the Debt-for-Equity Exchange Parties in connection with the Debt-for-Equity Exchange. In furtherance thereof, to the extent not undertaken and completed prior to the execution of this Agreement, the Company shall enter into the Debt-for-Equity Exchange Agreement, in form and substance reasonably satisfactory to MMC and shall comply with its obligations thereunder.

Section 3.02. The IPO. The Company shall cooperate with, and take all actions reasonably requested by, MMC in connection with the IPO. In furtherance thereof, to the extent not undertaken and completed prior to the execution of this Agreement:

(a) The Company shall file the IPO Registration Statement, and such amendments or supplements thereto, as may be necessary in order to cause the same to become and remain effective as required by the Equity Underwriting Agreement, the Commission and applicable Law, including federal, state or foreign securities Laws. The Company shall also cooperate in preparing, filing with the Commission and causing to become effective a registration statement registering the Common Stock under the Exchange Act, and any registration statements or amendments thereof that are required to reflect the establishment of, or amendments to, any employee benefit and other plans necessary or appropriate in connection with the IPO or the other transactions contemplated by this Agreement and the Ancillary Agreements.

(b) The Company and MMC shall enter into the Equity Underwriting Agreement, in form and substance reasonably satisfactory to MMC and shall comply with their respective obligations thereunder.

(c) The Company shall use its commercially reasonable efforts to take all such action as may be necessary or appropriate under state securities and blue sky laws of the United States (and any comparable Laws under any foreign jurisdictions) in connection with the IPO.

(d) The Company will cooperate in all respects with MMC, the Debt-for-Equity Exchange Parties and the Equity Underwriters in connection with the pricing of the Common Stock to be issued in the IPO and the timing of the IPO and will, at any such party's request, promptly take any and all actions necessary or desirable to consummate the IPO as contemplated by the IPO Registration Statement and the Equity Underwriting Agreement.

(e) The Company shall prepare, file and use its commercially reasonable efforts to seek to make effective an application for listing of the Common Stock issued in the IPO on the New York Stock Exchange.

Section 3.03. Charter; By-laws. Prior to the effectiveness of the IPO Registration Statement, MMC and the Company will each take all actions that may be required to provide for the adoption by the Company of the Amended and Restated Certificate of Incorporation of the Company and the Amended and Restated By-laws of the Company, each substantially in the form filed as an exhibit to the IPO Registration Statement.

ARTICLE IV

MUTUAL RELEASES; INDEMNIFICATION

Section 4.01. Release of Pre-Closing Claims.

(a) Except as provided in Section 4.01(c) and Section 4.03, effective as of the Effective Date, the Company does hereby, for itself and for each member of the Company Group as of the Effective Date and their respective successors and assigns and all Persons who at any time prior to the Effective Date, have been directors, officers, agents or employees of any member of the Company Group (in each case, in their respective capacities as such), release and forever discharge MMC and each member of the MMC Group, and all Persons who at any time prior to the Effective Date have been stockholders, directors, officers, managers, members, agents or employees of any Person in the MMC Group (in each case, in their respective capacities as such), and their respective heirs, executors, administrators, successors and assigns, from any and all Liabilities whatsoever, whether at law or in equity (including any rights of contribution or recovery), whether arising under any Contract, by operation of Law or otherwise, existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur or any conditions existing or alleged to have existed in each case on or before the Effective Date, including in connection with the transactions and all other activities to implement the Transactions and any of the other transactions contemplated hereunder and under any of the Ancillary Agreements.

(b) Except as provided in Section 4.01(c) and Section 4.02, effective as of the Effective Date, MMC does hereby, for itself and for each member of the MMC Group as of the Effective Date and their respective successors and assigns and all Persons who at any time prior to the Effective Date, have been directors, officers, agents or employees of any member of the MMC Group (in each case, in their respective capacities as such), remise, release and forever discharge the Company and each member of the Company Group as of the Effective Date, and all Persons who at any time prior to the Effective Date have been stockholders, directors, officers, managers, members, agents or employees of any Person in the Company Group (in each case, in their respective capacities as such), and their respective heirs, executors, administrators successors and assigns, from any and all Liabilities whatsoever, whether at law or in equity (including any rights of contribution or recovery), whether arising under any Contract, by operation of Law or otherwise, including for fraud, existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur or any conditions existing or alleged to have existed in each case on or before the Effective Date, including in connection with the transactions and all other activities to implement the Transactions and any of the other transactions contemplated hereunder and under any of the Ancillary Agreements.

(c) Nothing contained in Section 4.01(a) or (b) shall (x) impair any right of any Person to enforce this Agreement, any Ancillary Agreement or any Contracts that are specified in Section 2.07(b) or the applicable schedules thereto not to terminate as of the Effective Date, in each case in accordance with its terms or (y) release any Person from:

(i) any Liability provided in or resulting from any Contract among any Persons in the MMC Group or the Company Group that is specified in Section 2.06(b) or the applicable schedules thereto as not to terminate as of the Effective Date, or any other Liability specified in such Section 2.06(b) as not to terminate as of the Effective Date;

(ii) any Liability assumed or retained by, or transferred, assigned or allocated to the Group of which such Person is a member in accordance with, or any other Liability of any Person in any Group under, this Agreement, or any Ancillary Agreement, including with respect to the Company, any MMREIS Liability;

(iii) any Liability provided in or resulting from any Contract or understanding that is entered into after the Effective Date between a member of the MMC Group, on the one hand, and a member of the Company Group, on the other hand;

(iv) any Liability that the parties may have with respect to claim for indemnification, recovery or contribution brought pursuant to this Agreement or any Ancillary Agreement, which Liability shall be governed by the provisions of this Article IV or, if applicable, the appropriate provisions of the Ancillary Agreements; or

(v) any Liability the release of which would result in the release of any Person other than a Person released pursuant to this Section 4.01.

In addition, nothing contained in Section 4.01(a) shall release MMC from indemnifying any director, officer or employee of the Company or MMREIS who was a director, officer or employee of MMC or any of its Affiliates on or prior to the Effective Date, to the extent such director, officer or employee is or becomes a named defendant in any Action with respect to which he or she was entitled to such indemnification pursuant to obligations existing prior to the Effective Date, it being understood that if the underlying obligation giving rise to such Action is an MMREIS Liability, the Company shall indemnify MMC for such Liability (including MMC's costs to indemnify the director, officer or employee) in accordance with the provisions set forth in this Article IV.

(d) The Company shall not, and shall not permit any Person in the Company Group, to make any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution, recovery or any indemnification, against MMC or any Person in the MMC Group, or any other Person released pursuant to Section 4.01(a), with respect to any Liabilities released pursuant to Section 4.01(a). MMC shall not, and shall not permit any Person in the MMC Group, to make any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution, recovery or any indemnification against the Company or any Person in the Company Group, or any other Person released pursuant to Section 4.01(b), with respect to any Liabilities released pursuant to Section 4.01(b).

(e) It is the intent of each of MMC and the Company, by virtue of the provisions of this Section 4.01, to provide for a full and complete release and discharge of all Liabilities existing or arising from all acts and events occurring or failing to occur or alleged to have occurred or to have failed to occur and all conditions existing or alleged to have existed in each case on or before the Effective Date, between or among the Company or any Person in the

Company Group, on the one hand, and MMC or any Person in the MMC Group, on the other hand (including any contractual agreements or arrangements existing or alleged to exist between or among any such Persons on or before the Effective Date), except as expressly set forth in Section 4.01(c). At any time, at the request of any other party, each party shall cause each Person in its respective Group and to the extent practicable each other Person to execute and deliver releases reflecting the provisions hereof.

(f) If any Person associated with either MMC or the Company (including any of their respective directors, officers, agents or employees) initiates an Action with respect to claims released by this Section 4.01, the party with which such Person is associated shall indemnify the other party against such Action in accordance with the provisions set forth in this Article IV.

Section 4.02. Indemnification by the Company. Except as provided in Section 4.04, the Company shall indemnify, defend and hold harmless each member of the MMC Group and each of their Affiliates and each member of the MMC Group's and their respective Affiliates' directors, officers, employees and agents, and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the "MMC Indemnitees"), from and against any and all Losses of the MMC Indemnitees relating to, arising out of or resulting from any of the following items (without duplication and including any such Losses arising by way of setoff, counterclaim or defense or enforcement of any Lien):

(i) all MMREIS Liabilities;

(ii) any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, with respect to all information contained in any Disclosure Document with respect to the IPO other than any such statement or omission in the Disclosure Document furnished by MMC solely in respect of MMC expressly for use in the Disclosure Document; and

(iii) any breach by the Company or any Person in the Company Group of this Agreement or any Ancillary Agreement, unless such Ancillary Agreement expressly provides for separate indemnification therein, in which case, any such indemnification claims may be made thereunder.

Notwithstanding anything to the contrary herein, in no event will any MMC Indemnitee have the right to seek indemnification from any Person in the Company Group with respect to any claim or demand against any Person in the MMC Group for the satisfaction of the Excluded Liabilities.

Section 4.03. Indemnification by MMC. Except as provided in Section 4.04, MMC shall indemnify, defend and hold harmless each member of the Company Group and each of their Affiliates and each member of the Company Group's and their respective Affiliates' respective directors, officers, employees and agents, and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the "Company Indemnitees"), from and against any and all Losses of the Company Indemnitees relating to, arising out of or resulting from any of the following items (without duplication and including any Losses arising by way of setoff, counterclaim or defense or enforcement of any Lien):

(i) all Excluded Liabilities; and

(ii) any breach by MMC or any Person in the MMC Group of this Agreement or any Ancillary Agreement, unless such Ancillary Agreement expressly provides for separate indemnification therein, in which case, any such indemnification claims may be made thereunder.

Notwithstanding anything to the contrary herein, in no event will any Company Indemnitee have the right to seek indemnification from any Person in the MMC Group with respect to any claim or demand against any Person in the Company Group for the satisfaction of the MMREIS Liabilities.

Section 4.04. Indemnification Obligations Net of Insurance Proceeds and Other Amounts.

(a) The parties intend that any Loss subject to indemnification or reimbursement pursuant to this Article IV will be net of Insurance Proceeds that actually reduce the amount of the Loss. Accordingly, the amount which any party (an "Indemnifying Party") is required to pay to any Person entitled to indemnification hereunder (an "Indemnitee") will be reduced by any Insurance Proceeds theretofore actually recovered by or on behalf of the Indemnitee in respect of the related Loss. If an Indemnitee receives a payment (an "Indemnity Payment") required by this Agreement from an Indemnifying Party in respect of any Loss and subsequently receives Insurance Proceeds, then the Indemnitee will pay to the Indemnifying Party an amount equal to the excess of the Indemnity Payment received over the amount of the Indemnity Payment that would have been due if the Insurance Proceeds had been received, realized or recovered before the Indemnity Payment was made.

(b) An insurer who would otherwise be obligated to pay any claim shall not be relieved of the responsibility with respect thereto or, solely by virtue of the indemnification provisions hereof, have any subrogation rights with respect thereto, it being expressly understood and agreed that no insurer or any other third party shall be entitled to a "wind-fall" (i.e., a benefit such insurer or other third party would not be entitled to receive in the absence of the indemnification provisions) by virtue of the indemnification provisions hereof. Nothing contained in this Agreement or any Ancillary Agreement shall obligate any Person in any Group to seek to collect or recover any Insurance Proceeds.

(c) Any Indemnity Payment made by the Company shall be increased as necessary so that after making all payments in respect to Taxes imposed on or attributable to such Indemnity Payment, each MMC Indemnitee receives an amount equal to the sum it would have received had no such Taxes been imposed. Any Indemnity Payment made by MMC shall be increased as necessary so that after making all payments in respect to Taxes imposed on or attributable to such Indemnity Payment, each Company Indemnitee receives an amount equal to the sum it would have received had no such Taxes been imposed.

(d) If an indemnification claim is covered by the indemnification provisions of an Ancillary Agreement, the claim shall be made under the Ancillary Agreement to the extent applicable and the provisions thereof shall govern such claim. In no event shall any party be entitled to double recovery from the indemnification provisions of this Agreement and any Ancillary Agreement.

Section 4.05. Procedures for Indemnification of Third Party Claims.

(a) If an Indemnitee shall receive notice or otherwise learn of the assertion by a Person (including any Governmental Authority) who is not a Person in the MMC Group or the Company Group of any claim or of the commencement by any such Person of any Action with respect to which an Indemnifying Party may be obligated to provide indemnification to such Indemnitee pursuant to Section 4.02 or Section 4.03, or any other Section of this Agreement (collectively, a "Third Party Claim"), such Indemnitee shall give such Indemnifying Party written notice thereof as promptly as practicable (and in any event within forty-five (45) days) after becoming aware of such Third Party Claim. Any such notice shall describe the Third Party Claim in reasonable detail. Notwithstanding the foregoing, the failure of any Indemnitee or other Person to give notice as provided in this Section 4.05(a) shall not relieve the related Indemnifying Party of its obligations under this Article IV, except to the extent, and only to the extent, that such Indemnifying Party is materially prejudiced by such failure to give notice.

(b) An Indemnifying Party may elect (but shall not be required) to defend, at such Indemnifying Party's own expense and by such Indemnifying Party's own counsel (which counsel shall be reasonably satisfactory to the Indemnitee), any Third Party Claim; provided that the Indemnifying Party shall not be entitled to defend and shall pay the reasonable fees and expenses of one separate counsel for all Indemnitees if the claim for indemnification relates to or arises in connection with any criminal action, indictment or allegation. Within forty-five (45) days after the receipt of notice from an Indemnitee in accordance with Section 4.05(a) (or sooner, if the nature of such Third Party Claim so requires), the Indemnifying Party shall notify the Indemnitee of its election whether the Indemnifying Party will assume responsibility for defending such Third Party Claim, which election shall specify any reservations or exceptions to its defense. After notice from an Indemnifying Party to an Indemnitee of its election to assume the defense of a Third Party Claim, such Indemnitee shall have the right to employ separate counsel and to participate in (but not control) the defense, compromise, or settlement thereof, but the fees and expenses of such counsel shall be the expense of such Indemnitee; provided, however, in the event that (i) the Indemnifying Party has elected to assume the defense of the Third Party Claim but has specified, and continues to assert, any reservations or exceptions in such notice or (ii) the Third Party Claim involves injunctive or equitable relief, then, in any such case, the reasonable fees and expenses of one separate counsel for all Indemnitees shall be borne by the Indemnifying Party.

(c) If an Indemnifying Party elects not to assume responsibility for defending a Third Party Claim, or fails to notify an Indemnitee of its election as provided in Section 4.05(b), such Indemnitee may defend such Third Party Claim at the cost and expense of the Indemnifying Party. Any legal fees and expenses incurred by the Indemnitee in connection with defending such claim shall be paid by the Indemnifying Party at the then applicable regular rates charged by counsel, without regard to any flat fee or special fee arrangement otherwise in effect between such counsel and the Indemnitee.

(d) Unless the Indemnifying Party has failed to assume the defense of the Third Party Claim in accordance with the terms of this Agreement, no Indemnitee may settle or compromise any Third Party Claim without the consent of the Indemnifying Party. If an Indemnifying Party has failed to assume the defense of the Third Party Claim within the time period specified in clause (b) above, it shall not be a defense to any obligation to pay any amount in respect of such Third Party Claim that the Indemnifying Party was not consulted in the defense thereof, that such Indemnifying Party's views or opinions as to the conduct of such defense were not accepted or adopted, that such Indemnifying Party does not approve of the quality or manner of the defense thereof or that such Third Party Claim was incurred by reason of a settlement rather than by a judgment or other determination of liability.

(e) In the case of a Third Party Claim, no Indemnifying Party shall consent to entry of any judgment or enter into any settlement of the Third Party Claim without the consent of the Indemnitee if the effect thereof is (i) to permit any injunction, declaratory judgment, other order or other non-monetary relief to be entered, directly or indirectly, against any Indemnitee or (ii) to ascribe any fault on any Indemnitee in connection with such defense.

(f) Notwithstanding the foregoing, the Indemnifying Party shall not, without the prior written consent of the Indemnitee, settle or compromise any Third Party Claim or consent to the entry of any judgment which does not include as an unconditional term thereof the delivery by the claimant or plaintiff to the Indemnitee of a written release from all Liability in respect of such Third Party Claim.

Section 4.06. Additional Matters.

(a) Any claim on account of a Loss which does not result from a Third Party Claim shall be asserted by written notice given by the Indemnitee to the related Indemnifying Party. Such Indemnifying Party shall have a period of thirty (30) days after the receipt of such notice within which to respond thereto. If such Indemnifying Party does not respond within such 30-day period, such Indemnifying Party shall be deemed to have refused to accept responsibility to make payment. If such Indemnifying Party does not respond within such 30-day period or rejects such claim in whole or in part, such Indemnitee shall be free to pursue such remedies as may be available to such Indemnitee as contemplated by this Agreement.

(b) In the event of payment by or on behalf of any Indemnifying Party to any Indemnitee in connection with any Third Party Claim, such Indemnifying Party shall be subrogated to and shall stand in the place of such Indemnitee as to any events or circumstances in respect of which such Indemnitee may have any right, defense or claim relating to such Third Party Claim against any claimant or plaintiff asserting such Third Party Claim or against any other Person. Such Indemnitee shall cooperate with such Indemnifying Party in a reasonable manner, and at the cost and expense of such Indemnifying Party, in prosecuting any subrogated right, defense or claim.

(c) In the event of an Action in which the Indemnifying Party is not a named defendant, if either the Indemnitee or Indemnifying Party shall so request, the parties shall endeavor to substitute the Indemnifying Party for the named defendant or otherwise hold the Indemnifying Party as party thereto, if at all practicable. If such substitution or addition cannot be achieved for any reason or is not requested, the named defendant shall allow the Indemnifying Party to manage the Action as set forth in this Section, and the Indemnifying Party shall fully indemnify the named defendant against all costs of defending the Action (including court costs, sanctions imposed by a court, attorneys' fees, experts fees and all other external expenses), the costs of any judgment or settlement, and the cost of any interest or penalties relating to any judgment or settlement with respect to such Third Party Claim.

Section 4.07. Remedies Cumulative. The remedies provided in this Article IV shall be cumulative and, subject to the provisions of Article VI, shall not preclude assertion by any Indemnitee of any other rights or the seeking of any and all other remedies against any Indemnifying Party.

Section 4.08. Survival of Indemnities. The indemnity and contribution agreements contained in this Article IV shall remain operative and in full force and effect, regardless of (i) any investigation made by or on behalf of any Indemnitee; and (ii) the knowledge by the Indemnitee of Liabilities for which it might be entitled to indemnification or contribution hereunder. The rights and obligations of each of MMC and the Company and their respective Indemnitees under this Article IV shall survive the merger or consolidation of any party, the sale or other transfer by any party of any Assets or businesses or the assignment by it of any Liabilities, or the change of form or change of control of any party.

Section 4.09. Special Damages. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT OR ANY ANCILLARY AGREEMENT TO THE CONTRARY, IN NO EVENT WILL EITHER PARTY OR ANY OF ITS GROUP MEMBERS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, COLLATERAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OR LOST PROFITS SUFFERED BY AN INDEMNIFIED PARTY, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, IN CONNECTION WITH ANY DAMAGES ARISING HEREUNDER OR THEREUNDER; PROVIDED, HOWEVER, THAT TO THE EXTENT AN INDEMNIFIED PARTY IS REQUIRED TO PAY ANY SPECIAL, INCIDENTAL, INDIRECT, COLLATERAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OR LOST PROFITS TO A PERSON WHO IS NOT A MEMBER OF EITHER GROUP IN CONNECTION WITH A THIRD PARTY CLAIM, SUCH DAMAGES WILL CONSTITUTE DIRECT DAMAGES AND NOT BE SUBJECT TO THE LIMITATION SET FORTH IN THIS SECTION 4.09.

ARTICLE V

CERTAIN BUSINESS MATTERS

Section 5.01. No Restriction on Competition. It is the explicit intent of each of the parties hereto that the provisions of this Agreement shall not include any non-competition or other similar restrictive arrangements with respect to the range of business activities which may be conducted by the parties hereto. Accordingly, each of the parties hereto acknowledges and

agrees that nothing set forth in this Agreement shall be construed to create any explicit or implied restriction or other limitation on (i) the ability of any party hereto to engage in any business or other activity which competes with the business of any other party hereto or (ii) the ability of any party to engage in any specific line of business or engage in any business activity in any specific geographic area.

Section 5.02. No Use of Certain Names: Transitional Licenses. Following the Effective Date, MMC Group shall, as soon as practicable, but in no event later than two years following the Effective Date, (i) cease to use any Retained Names and hold themselves out as having any affiliation with the Company Group, and (ii) strike over, or otherwise obliterate all Retained Names from the materials owned by the MMC Group, including any sales and product literature, business cards, schedules, stationery, packaging materials, displays, signs, promotional materials, manuals, forms, websites, email, computer software and other materials and systems; provided that, for a period of no more than three (3) years following the Effective Date, with respect to any inventory of products in the MMC Group's possession as of the Effective Date, the MMC Group shall be permitted to use such Retained Names until such inventory is depleted. Any use by the MMC Group of any of the Retained Names as permitted in this Section 5.02 is subject to their use of the Retained Names in the same form and manner, and with standards of quality, of that in effect for the Retained Names as of the Effective Date. The MMC Group shall not use the Retained Names in a manner that may reflect negatively on such name and marks or on the Company or any of its Affiliates. Without limitation to any other remedies, the Company shall have the right to terminate the foregoing license, effective immediately, if any of the MMC Group fails to comply with the foregoing terms and conditions or otherwise fails to comply with any reasonable direction of the Company or any of its Affiliates in relation to the use of the Retained Names.

ARTICLE VI

EXCHANGE OF INFORMATION; CONFIDENTIALITY

Section 6.01. Provision of Corporate Records. As soon as practicable after the Effective Date, subject to the provisions of this Section 6.01, MMC and the Company shall discuss and negotiate in good faith to agree to a plan to transition (i) to the Company all Company Books and Records in the possession of MMC or any member of the MMC Group, and (ii) to MMC all MMC Books and Records in the possession of the Company or any member of the Company Group. The foregoing shall be limited by the following:

(a) The transition of books and records shall require only deliveries of (i) specific and discrete books and records or a reasonably limited class of items requested by the other party and (ii) specific and discrete books and records identified by either party in the ordinary course of business and determined by such party to be material to the other's business. Without limiting any express delivery requirements under any other provision of this Agreement or any Ancillary Agreement, neither party shall be required to conduct any general search or investigation of its files.

(b) Each party may retain copies of books and records delivered to the other, subject to holding in confidence in accordance with Section 6.09 information contained in such books and records.

(c) Each party may in good faith refuse to furnish any books and records under this Section 6.01 if it reasonably believes in good faith that doing so could materially adversely affect its ability to successfully assert a claim of Privilege.

(d) Neither party shall be required to deliver to the other books and records or portions thereof which are subject to any Law or confidentiality agreements which would by their terms prohibit such delivery; provided, however, that if requested by the other party, such party shall use reasonable best efforts to seek a waiver of or other relief from such confidentiality restriction.

(e) Nothing in this Section 6.01 shall affect the rights and obligations of any party with respect to the sharing of information under the Tax Matters Agreement.

Section 6.02. Agreement for Exchange of Information; Archives.

(a) Each of MMC and the Company, on behalf of its respective Group, agrees to provide, or cause to be provided, to the other Group, at any time before or after the Effective Date, as soon as reasonably practicable after written request therefor, access to any Information in the possession or under the control of such respective Group that can be retrieved without unreasonable disruption to its business which the requesting party reasonably needs (i) to comply with reporting, disclosure, filing, record retention or other requirements imposed on the requesting party (including under applicable securities or tax Laws) by a Governmental Authority having jurisdiction over the requesting party, (ii) for use in any other judicial, regulatory, administrative, tax or other proceeding or in order to satisfy audit, accounting, regulatory, litigation, environmental, tax or other similar requirements, in each case other than claims or allegations that one party to this Agreement or any member of its Group has against the other party or any member of its Group, or (iii) subject to the foregoing clause (ii), to comply with its obligations under this Agreement.

(b) After the Effective Date, each of the MMC Group on the one hand, and the Company Group on the other hand, shall provide to such other Group access during regular business hours (as in effect from time to time) to Information that relates to the business and operations of such Group that are located in archives retained or maintained by such other Group (or, if such Information does not exclusively relate to a party's business, to the portions of such Information that so exclusively relate), subject to appropriate restrictions for proprietary, privileged or confidential information and to the requirements of an applicable state and/or federal regulation such as a Code of Conduct, to the personnel, properties and information of such party and its Subsidiaries, and only insofar as such access is reasonably required by the other party for legitimate business reasons, and only for the duration such access is required, and relates to such other party or the conduct of the business prior to the Effective Date. The Company or MMC, as applicable, may obtain copies (but not originals) at their own expense of such Information for bona fide business purposes. The Company or MMC, as applicable, shall pay the applicable fee or rate per hour for archives research services (subject to increase from time to time to reflect rates then in effect) for the providing party generally. Nothing herein shall be deemed to restrict the access of the providing party to any Information or to impose any liability on the providing party if any such Information is not maintained or preserved by such party.

(c) Nothing in this Section 6.02 shall affect the rights and obligations of any party with respect to the sharing of information under the Tax Matters Agreement.

(d) In the event any party reasonably determines that any such provision of Information could be commercially detrimental, violate any Law or Contract, or result in the waiver any Privilege, the parties shall take all commercially reasonable measures to permit the compliance with such obligations in a manner that avoids any such harm or consequence.

Section 6.03. Ownership of Information. Any Information owned by one Group that is provided to a requesting party pursuant to Section 6.01 shall be deemed to remain the property of the providing party. Unless expressly set forth in this Agreement, nothing contained in this Agreement shall be construed as granting or conferring any right, title or interest (whether by license or otherwise) in, to or under any such Information.

Section 6.04. Compensation for Providing Information. The party requesting access to Information agrees to reimburse the other party for the reasonable costs, if any, of providing such access, including costs of salaries and benefits of employees who are involved in providing access to the Information or any pro rata portion of overhead or other costs of employing such employees which would have been incurred by such employees' employer regardless of the employees' service as providing the access to Information and the costs incurred in creating, gathering and copying such Information, to the extent that such costs are incurred for the benefit of the requesting party.

Section 6.05. Record Retention. To facilitate the possible exchange of Information pursuant to this Article VI and other provisions of this Agreement after the Effective Date, the parties agree to use their commercially reasonable efforts to retain all Information in their respective possession or control on the Effective Date in accordance with the policies of MMC as in effect from time to time or such other policies as may be reasonably adopted by the appropriate party after the Effective Date. For the avoidance of doubt, such policies shall be deemed to apply to any Information in a party's possession or control on the Effective Date relating to the other party or members of its Group. Notwithstanding the foregoing, to the extent such Information relates to Environmental Liabilities, such retention period shall be extended to the expiration of the applicable statute of limitations (giving effect to any extensions thereof). Nothing in this Section 6.05 shall affect the rights and obligations of any party to the Tax Matters Agreement with respect to Tax Records.

Section 6.06. Limitations of Liability. Except as otherwise provided in this Article VI, no party shall have any liability to any other party in the event that any Information exchanged or provided pursuant to this Agreement is found to be inaccurate or the requested Information is not provided, in the absence of willful misconduct by the party requested to provide such Information. No party shall have any liability to any other party if any Information is destroyed after commercially reasonable efforts by such party to comply with the provisions of Section 6.05.

Section 6.07. Other Agreements Providing for Exchange of Information. The rights and obligations granted under this Article VI are subject to any specific limitations, qualifications or additional provisions on the sharing, exchange, retention, rights to use, or confidential treatment of Information set forth in any Ancillary Agreement.

Section 6.08. Production of Witnesses; Records; Cooperation.

(a) After the Effective Date, except in the case of any Action involving or relating to a conflict or dispute between any member of the MMC Group, on the one hand, and any member of the Company Group, on the other hand, each party hereto will use its commercially reasonable efforts to make available to each other party, upon written request, the then current directors, officers, employees, other personnel and agents of the Person in its respective Group as witnesses and any books, records or other documents within its control or which it otherwise has the ability to make available, to the extent that any such Person (giving consideration to business demands of such directors, officers, employees, other personnel and agents) or books, records or other documents may reasonably be required in connection with any Action in which indemnification is or may reasonably be expected to be sought that the requesting party may from time to time be involved. The requesting party shall bear all costs and expenses in connection therewith.

(b) If an Indemnifying Party or Indemnitee chooses to defend or to seek to compromise or settle any Third Party Claim, the other party shall make available to such Indemnifying Party or Indemnitee, as applicable, upon written request then current directors, officers, employees, other personnel and agents of the Persons in its respective Group as witnesses and any Information within its control or possession, to the extent that any such Person (giving consideration to business demands of such directors, officers, employees, other personnel

and agents) or books, records or other documents may reasonably be required in connection with such defense, settlement or compromise, or such prosecution, evaluation or pursuit, as the case may be, and shall otherwise reasonably cooperate in such defense, settlement or compromise, or such prosecution, evaluation or pursuit, as the case may be.

(c) Without limiting the foregoing, the parties shall cooperate and consult to the extent reasonably necessary with respect to any Actions in which indemnification is or may reasonably be expected to be sought.

(d) The obligation of the parties to provide witnesses pursuant to this Section 6.08 is intended to be interpreted in a manner so as to facilitate cooperation and shall include the obligation to provide as witnesses employees and other officers without regard to whether the witness or the employer of the witness could assert a possible business conflict (subject to the exception set forth in the first sentence of Section 6.08(a)).

(e) In connection with any matter contemplated by this Section 6.08 the parties will enter into a mutually acceptable joint defense agreement so as to maintain to the extent practicable any applicable attorney-client privilege or work product immunity of any Person in any Group.

Section 6.09. Confidentiality.

(a) Subject to Section 6.10, each of MMC and the Company (each, a "Receiving Party"), on behalf of itself and each Person in its respective Group, agree to hold, and to cause its respective directors, officers, employees, agents, accountants, counsel and other advisors and representatives to hold in strict confidence, with at least the same degree of care that applies to the confidential and proprietary information of MMC pursuant to policies in effect as of the Effective Date, all Information with respect to MMC, solely concerning the MMREIS Business (for which the Company shall be the "Disclosing Party") and with respect to the Company, concerning the MMC Business (for which MMC shall be the "Disclosing Party") that is accessible to it, in its possession (including Information in its possession prior to the Effective Date) or furnished by the Disclosing Party or any Person in its respective Group, or accessible to, in the possession of, or furnished to the Company's respective directors, officers, employees, agents, accountants, counsel and other advisors and representatives at any time pursuant to this Agreement or otherwise, except, in each case, to the extent that such Information (i) is or becomes part of the public domain through no breach of this Agreement by the Receiving Party or any of its Group, its respective directors, officers, employees, agents, accountants, counsel and other advisors and representatives, (ii) information that was independently developed following the Effective Date by employees or agents of the Receiving Party or any Person in its respective Group, its respective directors, officers, employees, agents, accountants, counsel and other advisors and representatives who have not accessed or otherwise received the applicable Information; provided that such independent development can be demonstrated by competent, contemporaneous written records of the Receiving Party or any Person in its respective Group, or (iii) becomes available to the Receiving Party or any Person in its respective Group following the Effective Date on a non-confidential basis from a third party who is not bound directly or indirectly by a duty of confidentiality to the Disclosing Party.

(b) Each party acknowledges that it and the other members of its Group may have in their possession confidential or proprietary Information of third parties that was received under confidentiality or non-disclosure agreements with such third party prior to the Effective Date. Such party will hold, and will cause the other members of its Group and their respective representatives to hold, in strict confidence the confidential and proprietary information of third parties to which they or any other member of their respective Groups has access, in accordance with the terms of any agreements entered into prior to the Effective Date between one or more members of such party's Group (whether acting through, on behalf of, or connection with, the separated businesses) and such third parties.

(c) Upon the written request of a party, the other party shall promptly destroy any copies of such confidential or proprietary Information (including any extracts therefrom) specifically identified by the requesting party to be destroyed. Upon the written request of such requesting party, the other party shall cause one of its duly authorized officers to certify in writing to such requesting party that the requirements of the preceding sentence have been satisfied in full.

(d) Notwithstanding anything to the contrary in this Article VI, (i) to the extent that an Ancillary Agreement or other Contract pursuant to which a party hereto or a Person in its respective Group is bound or its confidential Information is subject provides that certain Information shall be maintained confidential on a basis that is more protective of such Information or for a longer period of time than provided for herein, then the applicable provisions contained in such Ancillary Agreement or other Contract shall control with respect thereto and (ii) a Party and the Persons in its respective Group shall have no right to use any Information of the Disclosing Party unless otherwise provided for in this Agreement, an Ancillary Agreement or Contract between the Parties or a Person in its respective Group.

Section 6.10. Protective Arrangements. In the event that the Receiving Party or any Person in its Group either determines on the advice of its counsel that it is required to disclose any Information pursuant to applicable Law (including the rules and regulations of the Commission or any national securities exchange) or receives any request or demand from any Governmental Authority to disclose or provide Information of the Disclosing Party (or any Person in the Disclosing Party's Group) that is subject to the confidentiality provisions hereof, such party shall notify the other party prior to disclosing or providing such Information and shall cooperate at the expense of such other party in seeking any reasonable protective arrangements (including by seeking confidential treatment of such Information) requested by such other party. Subject to the foregoing, the Person that received such a request or determined that it is required to disclose Information may thereafter disclose or provide Information to the extent required by such Law (as so advised by counsel) or requested or required by such Governmental Authority; provided, however, that such Person provides the other party, to the extent legally permissible, upon request with a copy of the Information so disclosed.

Section 6.11. Preservation of Legal Privileges.

(a) MMC and the Company recognize that the members of their respective groups possess and will possess information and advice that has been previously developed but is legally protected from disclosure under legal privileges, such as the attorney-client privilege or work

product exemption and other concepts of legal protection ("Privilege"). Each party recognizes that they shall be jointly entitled to the Privilege with respect to such privileged information and that each shall be entitled to maintain, preserve and assert for its own benefit all such information and advice, but both parties shall ensure that such information is maintained so as to protect the Privileges with respect to the other party's interest. To that end, neither party will knowingly waive or compromise any Privilege associated with such information and advice without the prior written consent of the other party. In the event that privileged information is required to be disclosed to any arbitrator or mediator in connection with a dispute between the parties, such disclosure shall not be deemed a waiver of Privilege with respect to such information, and any party receiving it in connection with a proceeding shall be informed of its nature and shall be required to safeguard and protect it.

(b) The rights and obligations created by this Section 6.11 shall apply to all information relating to the MMREIS Business as to which, but for the Contribution and Distribution, either party would have been entitled to assert or did assert the protection of a Privilege, including (i) any and all information generated prior to the Effective Date but which, after the Contribution, is in the possession of either party and (ii) all information generated, received or arising after the Effective Date that refers to or relates to information described in the preceding clause (i).

(c) Upon receipt by either party of any subpoena, discovery or other request that may call for the production or disclosure of information that is the subject of a Privilege, or if a party obtains knowledge that any current or former employee of a party has received any subpoena, discovery or other request that may call for the production or disclosure of such information, such party shall provide the other party a reasonable opportunity to review the information and to assert any rights it may have under this Section 6.11 or otherwise to prevent the production or disclosure of such information. Absent receipt of written consent from the other party to the production or disclosure of information that may be covered by a Privilege, each party agrees that it will not produce or disclose any information that may be covered by a Privilege unless a court of competent jurisdiction has entered a final, nonappealable order finding that the information is not entitled to protection under any applicable Privilege.

(d) MMC's transfer of Company Books and Records and other Information to the Company, MMC's agreement to permit the Company to obtain Information existing prior to the Effective Date, the Company's transfer of MMC Books and Records and other Information and the Company's agreement to permit MMC to obtain Information existing prior to the Effective Date are made in reliance on MMC's and the Company's respective agreements, as set forth in Section 6.09, Section 6.10 and this Section 6.11, to maintain the confidentiality of such Information and to take the steps provided herein for the preservation of all Privileges that may belong to or be asserted by MMC or the Company, as the case may be. The access to Information being granted pursuant to Section 6.02 hereof, the agreement to provide witnesses and individuals pursuant to Section 6.08 hereof and the disclosure to MMC and the Company of Privileged Information relating to the MMREIS Business or MMC Business pursuant to this Agreement in connection with the Contribution shall not be asserted by MMC or the Company to constitute, or otherwise deemed, a waiver of any Privilege that has been or may be asserted under this Section 6.11 or otherwise. Nothing in this Agreement shall operate to reduce, minimize or condition the rights granted to MMC and the Company in, or the obligations imposed upon the parties by, this Section 6.11.

ARTICLE VII

FURTHER ASSURANCES

Section 7.01. Further Assurances. In addition to the actions specifically provided for elsewhere in this Agreement, each of the parties hereto will cooperate with each other and shall use its (and will cause their respective Subsidiaries and Affiliates to use) commercially reasonable efforts, prior to, on and after the Effective Date, to take, or cause to be taken, all actions, and to do, or cause to be done, all things, reasonably necessary, proper or advisable under applicable Laws, regulations and agreements to consummate and make effective the transactions contemplated by this Agreement and the Ancillary Agreements.

ARTICLE VIII

TERMINATION

Section 8.01. Termination. This Agreement may be terminated at any time after the consummation of the IPO by mutual consent of MMC and the Company.

Section 8.02. Effect of Termination. In the event of any termination of this Agreement, no party to this Agreement (or any of its directors, officers, members or managers) shall have any Liability or further obligation to any other party.

ARTICLE IX

MISCELLANEOUS

Section 9.01. Counterparts; Entire Agreement; Conflicting Agreements.

(a) This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party. Execution of this Agreement or any other documents pursuant to this Agreement by facsimile or other electronic copy of a signature shall be deemed to be, and shall have the same effect as, executed by an original signature.

(b) This Agreement, the Ancillary Agreements, the exhibits, the schedules and appendices hereto and thereto contain the entire agreement between the parties with respect to the subject matter hereof, supersede all previous agreements, negotiations, discussions, writings, understandings, commitments and conversations with respect to such subject matter and there are no agreements or understandings between the parties with respect to such subject matter other than those set forth or referred to herein or therein.

(c) In the event of any inconsistency between this Agreement and any Schedule hereto, the Schedule shall prevail. Subject to Section 4.04(d), in the event and to the extent that there shall be a conflict between the provisions of this Agreement and the provisions of any Ancillary Agreement, the Ancillary Agreement shall control with respect to the subject matter thereof, and this Agreement shall control with respect to all other matters.

Section 9.02. Governing Law. This Agreement shall be governed by and construed and interpreted in accordance with the Laws of the State of California, without regard to the conflict of laws principles thereof that would result in the application of any Law other than the Laws of the State of California.

Section 9.03. Assignability. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns; provided, however, that no party hereto may assign its respective rights or delegate its respective obligations under this Agreement without the express prior written consent of the other party or parties hereto.

Section 9.04. Third Party Beneficiaries. Except for the indemnification rights under this Agreement of any MMC Indemnitee or Company Indemnitee in their respective capacities as such (a) the provisions of this Agreement are solely for the benefit of the parties and are not intended to confer upon any Person (including employees of the parties hereto) except the parties any rights or remedies hereunder, and (b) there are no third party beneficiaries of this Agreement and this Agreement shall not provide any third person (including employees of the parties hereto) with any remedy, claim, liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement.

Section 9.05. Notices. All notices or other communications under this Agreement shall be in writing and shall be deemed to be duly given when (a) delivered in person or (b) deposited in the United States mail or private express mail, postage prepaid, addressed as follows:

If to MMC, to:

Marcus & Millichap Company
777 California Avenue
Palo Alto, CA 94304
Attention: Chief Financial Officer

If to the Company to:

Marcus & Millichap, Inc.
23975 Park Sorrento, Suite 400
Calabasas, CA 91302
Attention: Chief Financial Officer

Any party may, by notice to the other party, change the address to which such notices are to be given.

Section 9.06. Severability. If any provision of this Agreement or the application thereof to any Person or circumstance is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof or the application of such provision to Persons or circumstances or in jurisdictions other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to any party. Upon such determination, the parties shall negotiate in good faith in an effort to agree upon such a suitable and equitable provision to effect the original intent of the parties.

Section 9.07. Expenses. Except as otherwise specified in this Agreement or the Ancillary Agreements or as otherwise agreed in writing between MMC and the Company, MMC and the Company shall each be responsible for its own fees, costs and expenses paid or incurred in connection with the IPO, the Contribution and the Distribution.

Section 9.08. Headings. The article, section and paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 9.09. Survival of Covenants. The covenants contained in this Agreement, indemnification obligations and liability for the breach of any obligations contained herein, shall survive the Effective Date and the other transactions contemplated by this Agreement shall remain in full force and effect.

Section 9.10. Waivers of Default. Waiver by any party of any default by the other party of any provision of this Agreement shall not be deemed a waiver by the waiving party of any subsequent or other default, nor shall it prejudice the rights of the other party.

Section 9.11. Specific Performance. In the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement, the party or parties who are or are to be thereby aggrieved shall have the right to specific performance and injunctive or other equitable relief of its rights under this Agreement, in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative.

Section 9.12. Amendments. No provisions of this Agreement shall be deemed waived, amended, supplemented or modified by any party, unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of the party against whom it is sought to enforce such waiver, amendment, supplement or modification.

Section 9.13. Disputes.

(a) Resolution of any and all disputes arising from or in connection with this Agreement, whether based on contract, tort, statute or otherwise, including, but not limited to, disputes in connection with claims by third parties (collectively, "Disputes"), shall be subject to the provisions of this Section 9.13; *provided*, *however*, that nothing contained herein shall preclude either party from seeking or obtaining (i) injunctive relief or (ii) equitable or other judicial relief to enforce the provisions hereof or to preserve the status quo pending resolution of Disputes hereunder.

(b) Either party may give the other party written notice of any Dispute not resolved in the normal course of business. The parties shall attempt in good faith to resolve any Dispute promptly by negotiation between executives of the parties who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. Within 30 days after delivery of the notice, the foregoing executives of both parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary for a period not to exceed 15 days, to attempt to resolve the Dispute. All reasonable requests for information made by one party to the other will be honored. If the parties do not resolve the Dispute within such 45 day period (the "Initial Mediation Period"), the parties shall attempt in good faith to resolve the Dispute by negotiation between (a) in the case of MMC, the Chief Financial Officer or the General Counsel and (b) in the case of the Company, the Chief Financial Officer (collectively, the "Designated Officers"). Such officers shall meet at a mutually acceptable time and place (but in any event no later than 15 days following the expiration of the Initial Mediation Period) and thereafter as often as they reasonably deem necessary for a period not to exceed 15 days, to attempt to resolve the Dispute.

(c) If the Dispute has not been resolved by negotiation within 75 days of the first party's notice, or if the parties failed to meet within 30 days of the first party's notice, or if the Designated Officers failed to meet within 60 days of the first party's notice, either party may commence any litigation or other procedure allowed by law.

[Signature page follows]

IN WITNESS WHEREOF, the parties have caused this Separation and Distribution Agreement to be executed by their duly authorized representatives.

MARCUS & MILLICHAP COMPANY

By: /s/ Alexander Yarmolinsky
Name: Alexander Yarmolinsky
Title: Chief Financial Officer

MARCUS & MILLICHAP, INC.

By: /s/ Martin E. Louie
Name: Martin E. Louie
Title: Chief Financial Officer

Exhibit 10.2

TAX MATTERS AGREEMENT

This TAX MATTERS AGREEMENT (this "**Agreement**") is entered into as of October 31, 2013, by and among Marcus & Millichap Company, a California corporation ("**MMC**"), and Marcus & Millichap, Inc., a Delaware corporation and a majority owned subsidiary of MMC ("**MMI**") (MMC and MMI are sometimes collectively referred to herein as the "**Companies**" and, as the context requires, individually referred to herein as the "**Company**").

RECITALS

WHEREAS, the Board of Directors of MMC has determined that it would be appropriate and desirable to separate completely the MMI brokerage business from MMC;

WHEREAS, as of the date hereof, MMC is the common parent of an affiliated group of corporations, including MMI, which has elected to file consolidated Federal income tax returns;

WHEREAS, pursuant to the Contribution Agreement (as defined below), MMC has undertaken to contribute all of its stock of Marcus & Millichap Real Estate Investment Services, Inc. to MMI;

WHEREAS, MMC has agreed to effect the Debt-for-Equity Exchange and the Distribution;

WHEREAS, the parties desire to provide for and agree upon the allocation between the parties of liabilities for Taxes arising prior to, at the time of, and subsequent to the Distribution (as defined below), and to provide for and agree upon other matters relating to Taxes;

NOW THEREFORE, in consideration of the mutual agreements contained herein, the parties hereby agree as follows:

Section 1. Definition of Terms. For purposes of this Agreement (including the recitals hereof), the following terms have the following meanings:

"**Active Trade or Business**" means (i) with respect to MMI, the active conduct (as defined in Section 355(b)(2) of the Code and the Treasury Regulations thereunder) of the MMI brokerage business as conducted immediately prior to the IPO and (ii) with respect to MMC, the active conduct (as defined in Section 355(b)(2) of the Code and the Treasury Regulations thereunder) of MMC's business as conducted immediately prior to the IPO other than the MMI brokerage business.

"**Adjustment Request**" means any formal or informal claim or request filed with any Tax Authority, or with any administrative agency or court, for the adjustment, refund, or credit of Taxes, including (i) any amended Tax Return claiming adjustment to the Taxes as reported on the Tax Return or, if applicable, as previously adjusted, (ii) any claim for equitable recoupment or other offset, and (iii) any claim for refund or credit of Taxes previously paid.

"**Affiliate**" means, with respect to any Person, a Person that, directly or indirectly, controls, is controlled by or is under common control with, the Person specified. "Control" means beneficial ownership of more than fifty percent (50%) of the stock of an entity by voting power or value.

"**Agreement**" means this Tax Matters Agreement.

"**Business Day**" means any day other than Saturday, Sunday or any other day on which banks located in San Francisco, California, are required or authorized by law to remain closed.

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

"**Companies**" and "**Company**" have the meaning provided in the first sentence of this Agreement.

"**Contribution**" means the contribution of the stock of Marcus & Millichap Real Estate Investment Services, Inc. to MMI pursuant to the Contribution Agreement.

"**Contribution Agreement**" means the Contribution Agreement by and among MMI and the shareholders of Marcus & Millichap Real Estate Investment Services, Inc., including MMC.

"**Controlling Party**" has the meaning set forth in Section 9.02(c) of this Agreement.

"**Debt-for-Equity Exchange**" means an exchange by MMC of MMI Common Stock for debt owed by MMC in connection with the Distribution.

"**Deconsolidation Date**" means the last date on which MMI qualifies as a member of the affiliated group (as defined in Section 1504 of the Code) of which MMC is the common parent.

"**Dispute**" has the meaning set forth in Section 13.01 of this Agreement.

"**Distribution**" means the distribution of the stock of MMI by MMC to its shareholders.

"**Distribution Date**" means the date or dates on which the Distribution occurs.

"**Employment Tax**" means any income, withholding or payroll Taxes payable by the Companies or their subsidiaries in respect of wages or other amounts payable to employees (including FICA and FUTA Taxes) and any interest, penalties and additions to tax in respect of any such Tax.

"**Fifty Percent or Greater Interest**" has the meaning ascribed to such term for purposes of Sections 355(d) and (e) of the Code.

"**Filing Date**" has the meaning set forth in Section 6.04(d) of this Agreement.

"**Final Determination**" means the final resolution of liability for any Tax, which resolution may be for a specific issue or adjustment or for a taxable period, (i) by IRS Form 870 or 870-AD (or any successor forms thereto), on the date of acceptance by or on behalf of the taxpayer, or by a comparable form under the laws of a State, local, or foreign taxing jurisdiction, except that a Form 870 or 870-AD or comparable form shall not constitute a Final Determination to the extent that it reserves (whether by its terms or by operation of law) the right of the taxpayer to file a claim for refund or the right of the Tax Authority to assert a further deficiency in respect of such issue or adjustment or for such taxable period (as the case may be); (ii) by a decision, judgment, decree, or other order by a court of competent jurisdiction, which has become final and unappealable; (iii) by a closing agreement or accepted offer in compromise under Sections 7121 or 7122 of the Code, or a comparable agreement under the laws of a State, local, or foreign taxing jurisdiction; (iv) by any allowance of a refund or credit in respect of an overpayment of any Tax, but only after the expiration of all periods during which such refund may be recovered (including by way of offset) by the jurisdiction imposing such Tax; (v) by a final settlement resulting from a treaty-based competent authority determination; or (vi) by any other final disposition, including by reason of the expiration of the applicable statute of limitations or by mutual agreement of the parties.

"**Group**" means the MMC Group or the MMI Group, or both, as the context requires.

"**Income Tax**" means any United States federal income Tax, state income Tax or foreign income Tax (including any such Taxes imposed by means of withholding and including any interest, penalties or additions to tax in respect thereto); provided that Income Tax shall not include Employment Taxes.

"**Indemnitee**" has the meaning set forth in Section 12.02 of this Agreement.

"**Indemnitor**" has the meaning set forth in Section 12.02 of this Agreement.

"**IPO**" means the initial public offering of MMI.

"**IRS**" means the United States Internal Revenue Service.

"**Joint Return**" means any Tax Return relating to Income Tax that actually includes, by election or otherwise, one or more members of the MMC Group together with one or more members of the MMI Group.

"**MMC**" has the meaning provided in the first sentence of this Agreement.

"**MMC Entity**" means an entity that is a member of the MMC Group immediately after the Distribution or thereafter becomes a member of the MMC Group.

"**MMC Group**" means the affiliated group (as that term is defined in Section 1504 of the Code and the Treasury Regulations thereunder) of which MMC is the common parent, as determined immediately after the Distribution.

"**MMC Separate Return**" means any Tax Return relating to Income Taxes of or including any member of the MMC Group (including any consolidated, combined or unitary return) that does not include any member of the MMI Group.

"**MMI**" has the meaning provided in the first sentence of this Agreement.

"**MMI Carryback**" means any net operating loss, net capital loss, excess tax credit, or other similar Tax item of any member of the MMI Group which may or must be carried from one Tax Period to another prior Tax Period under the Code or other applicable Tax Law.

"**MMI Common Stock**" means common stock of MMI.

"**MMI Entity**" means an entity that is a member of the MMI Group immediately after the Distribution or thereafter becomes a member of the MMI Group.

"**MMI Group**" means the affiliated group (as that term is defined in Section 1504 of the Code and the Treasury Regulations thereunder) of which MMI is the common parent, as determined immediately after the Distribution.

"**MMI Separate Return**" means any Tax Return relating to Income Taxes of or including any member of the MMI Group (including any consolidated, combined or unitary return) that does not include any member of the MMC Group.

"**Non-Controlling Party**" has the meaning set forth in Section 9.02(c) of this Agreement.

"**Notified Action**" has the meaning set forth in Section 6.03(a) of this Agreement.

"**Payment Date**" means (i) with respect to any MMC federal consolidated income Tax Return, (A) the due date for any required installment of estimated taxes determined under Section 6655 of the Code, (B) the due date (determined without regard to extensions) for filing the return determined under Section 6072 of the Code, or if earlier (C) the date the return is filed, as the case may be, and (ii) with respect to any other Tax Return, the corresponding dates determined under the applicable Tax Law.

"**Payor**" has the meaning set forth in Section 4.03 of this Agreement.

"**Person**" means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization or a governmental entity or any department, agency or political subdivision thereof, without regard to whether any entity is treated as disregarded for U.S. federal income tax purposes.

"**Post-Deconsolidation Period**" means any Tax Period beginning after the Deconsolidation Date.

"**Pre-Deconsolidation Period**" means any Tax Period ending on or before the Deconsolidation Date.

"**Preliminary Tax Advisor**" has the meaning set forth in Section 13.03 of this Agreement.

"**Prime Rate**" means the base rate on corporate loans charged by Citibank, N.A. from time to time, compounded daily on the basis of a year of 365 or 366 (as applicable) days and actual days elapsed.

"**Privilege**" means any privilege that may be asserted under applicable law, including, any privilege arising under or relating to the attorney-client relationship (including the attorney-client and work product privileges), the accountant-client privilege and any privilege relating to internal evaluation processes.

"**Representation Letters**" means the statements of facts and representations, officer's certificates, representation letters and any other materials (including, without limitation, a Ruling Request and any related supplemental submissions to the IRS or other Tax Authority) delivered or deliverable by MMC, MMI, their Affiliates or representatives thereof in connection with the rendering by Tax Advisors, and/or the issuance by the IRS or other Tax Authority, of the Tax Opinions/Rulings.

"**Required Party**" has the meaning set forth in Section 4.03 of this Agreement.

"**Responsible Company**" means, with respect to any Tax Return, the Company having responsibility for preparing and filing such Tax Return under this Agreement.

"**Retention Date**" has the meaning set forth in Section 8.01 of this Agreement.

"**Ruling**" means a private letter ruling issued by the IRS to MMC in connection with the Contribution and Distribution.

"**Ruling Request**" means any letter filed by MMC with the IRS or other Tax Authority requesting a ruling regarding certain tax consequences of the Separation Transactions (including all attachments, exhibits, and other materials submitted with such ruling request letter) and any amendment or supplement to such ruling request letter.

"**Separate Return**" means an MMC Separate Return or an MMI Separate Return, as the case may be.

"**Separation Transactions**" means the Contribution, the Debt-for-Equity Exchange and the Distribution.

"**Straddle Period**" means any Tax Period that begins before or on the Deconsolidation Date and ends after the Deconsolidation Date.

"**Tax**" or "**Taxes**" means any income, gross income, gross receipts, profits, capital stock, franchise, withholding, payroll, social security, workers compensation, unemployment, disability, property, ad valorem, value added, stamp, excise, severance, occupation, service, sales, use, license, lease, transfer, import, export, alternative minimum, estimated or other tax (including any fee, assessment, or other charge in the nature of or in lieu of any tax), imposed by any governmental entity or political subdivision thereof, and any interest, penalty, additions to tax, or additional amounts in respect of the foregoing.

"**Tax Advisor**" means a tax counsel or accountant of recognized national standing.

"**Tax Attribute**" means a net operating loss, net capital loss, unused investment credit, unused foreign tax credit, excess charitable contribution, general business credit, research and development credit or any other Tax Item that could reduce a Tax or create a Tax Benefit.

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

"**Tax Benefit**" means any refund, credit, or other reduction in otherwise required liability for Taxes.

"**Tax Contest**" means an audit, review, examination, or any other administrative or judicial proceeding with the purpose or effect of redetermining Taxes (including any administrative or judicial review of any claim for refund).

"**Tax-Free Status**" means the qualification of the Contribution, the Debt-for-Equity Exchange and the Distribution, taken together, (i) as a reorganization described in Sections 355(a) and 368(a)(1)(D) of the Code, (ii) as a transaction in which the stock distributed thereby is "qualified property" for purposes of Sections 355(d), 355(e) and 361(c) of the Code, and (iii) as a transaction in which MMC, MMI and the shareholders of MMC recognize no income or gain for U.S. federal income tax purposes pursuant to Sections 355, 361 and 1032 of the Code, other than, in the case of MMC and MMI, intercompany items or excess loss accounts taken into account pursuant to the Treasury Regulations promulgated pursuant to Section 1502 of the Code, and in the case of the shareholders of MMC, any income from distributions of cash to them.

"**Tax Item**" means, with respect to any Income Tax, any item of income, gain, loss, deduction, or credit.

"**Tax Law**" means the law of any governmental entity or political subdivision thereof relating to any Tax.

"**Tax Opinions/Rulings**" means the opinions of Tax Advisors and/or the rulings by the IRS or other Tax Authorities deliverable to MMC in connection with the Contribution, the Debt-for-Equity Exchange, the Distribution, the IPO or otherwise with respect to the Separation Transactions.

"**Tax Period**" means, with respect to any Tax, the period for which the Tax is reported as provided under the Code or other applicable Tax Law.

"**Tax Records**" means any (i) Tax Returns, (ii) Tax Return workpapers, (iii) documentation relating to any Tax Contests, and (iv) any other books of account or records (whether or not in written, electronic or other tangible or intangible forms and whether or not stored on electronic or any other medium) required to be maintained under the Code or other applicable Tax Laws or under any record retention agreement with any Tax Authority, in each case filed with respect to or otherwise relating to Taxes that are the subject of this Agreement.

"**Tax-Related Losses**" means (i) all Taxes (including interest and penalties thereon) imposed pursuant to any settlement, Final Determination, judgment or otherwise; (ii) all accounting, legal and other professional fees, and court costs incurred in connection with such Taxes, as well as any other out-of-pocket costs incurred in connection with such Taxes; and (iii) all costs, expenses and damages associated with stockholder litigation or controversies and any amount paid by MMC (or any MMC Affiliate) or MMI (or any MMI Affiliate) in respect of the liability to shareholders, in each case resulting from the failure of the Contribution, the Debt-for-Equity Exchange and/or the Distribution to have Tax-Free Status.

"**Tax Return**" or "**Return**" means any report of Taxes due, any claim for refund of Taxes paid, any information return with respect to Taxes, or any other similar report, statement, declaration, or document required to be filed under the Code or other Tax Law with respect to Taxes, including any attachments, exhibits, or other materials submitted with any of the foregoing, and including any amendments or supplements to any of the foregoing.

"**Transfer Pricing Adjustment**" means any proposed or actual allocation by a Tax Authority of any Tax Item between or among any MMC Entity and any MMI Entity with respect to any Tax Period ending prior to or including the final Distribution Date.

"**Treasury Regulations**" means the regulations promulgated from time to time under the Code as in effect for the relevant Tax Period.

"**Unqualified Tax Opinion**" means an unqualified "will" opinion of a Tax Advisor, which Tax Advisor is acceptable to MMC (under Section 6.01(c)) or MMI (under Section 6.02(c)) on which MMC or MMI, as the case may be, may rely to the effect that a transaction will not affect the Tax-Free Status. Any such opinion must assume that the Contribution, the Debt-for-Equity Exchange and the Distribution would have qualified for Tax-Free Status if the transaction in question did not occur.

Section 2. Allocation of Tax Liabilities.

Section 2.01. General Rule.

(a) MMC Liability. MMC shall be liable for, and shall indemnify and hold harmless the MMI Group from and against any liability for, Taxes which are allocated to MMC under this Section 2.

(b) MMI Liability. MMI shall be liable for, and shall indemnify and hold harmless the MMC Group from and against any liability for, Taxes which are allocated to MMI under this Section 2.

Section 2.02. Allocation of Income Taxes. Except as provided in Section 2.03, Section 2.04 or Section 2.05, Income Taxes shall be allocated as follows:

(a) Pre-Deconsolidation Allocation. MMC shall be responsible for any and all Income Taxes of the MMC Entities and the MMI Entities due with respect to any income Tax Return (including any increase in such Tax as a result of a Final Determination) for all Pre-Deconsolidation Periods and to that portion of a Straddle Period that ends on the Deconsolidation Date.

(b) Post-Deconsolidation Allocation to MMI. MMI shall be responsible for any and all Income Taxes due with respect to any income Tax Return of any MMI Entity (including any increase in such Tax as a result of a Final Determination) for all Post-Deconsolidation Periods and to that portion of a Straddle Period that begins after the Deconsolidation Date.

(c) Allocations With Respect to Straddle Periods. For purposes of this Section 2.02, with respect to a Straddle Period, the Companies shall determine the Tax attributable to the portion of the Straddle Period that ends on the Deconsolidation Date by an interim closing of the books of the Companies and the members of their respective Groups as of the Deconsolidation Date. For this purpose, such portion of the Straddle Period shall be deemed to end at the end of the day on the Deconsolidation Date.

Section 2.03. Other Taxes. Employment Taxes, sales and use Taxes, ad valorem and property Taxes and all other Taxes other than Income Taxes shall be borne by the entity(ies) on which such taxes are imposed under pertinent Tax Law.

Section 2.04. MMI Liability. MMI shall be liable for, and shall indemnify and hold harmless the MMC Group from and against, any liability for:

(a) any Tax allocated to MMI or any other MMI Entity pursuant to Sections 2.01 through 2.03;

(b) any Tax or other damages resulting from a breach by MMI of any covenant in this Agreement; and

(c) any Tax-Related Losses for which MMI is responsible pursuant to Section 6.04 of this Agreement.

Section 2.05. MMC Liability. MMC shall be liable for, and shall indemnify and hold harmless the MMI Group from and against, any liability for:

(a) any Income Taxes imposed as a result of the triggering of an excess loss account occurring by reason of the Distribution or income attributable to a deferred intercompany transaction occurring on or prior to the Deconsolidation Date pursuant to the Treasury Regulations promulgated under Section 1502 of the Code (or comparable provisions of any state law);

(b) any Tax allocated to MMC or any other MMC Entity pursuant to Sections 2.01 through 2.03;

(c) any Tax or other damages resulting from a breach by MMC of any covenant in this Agreement; and

(d) any Tax-Related Losses for which MMC is responsible pursuant to Section 6.04 of this Agreement.

Section 3. Preparation and Filing of Tax Returns.

Section 3.01. MMC's Responsibility. MMC has the exclusive obligation and right to prepare and file, or to cause to be prepared and filed:

(a) all Joint Returns;

(b) all MMC Separate Returns;

(c) all MMI Separate Returns for Pre-Deconsolidation Periods and Straddle Periods; and

(d) all Tax Returns for members of the MMC Group.

Section 3.02. MMI's Responsibility. Except as provided in Section 3.01, the members of the MMI Group shall prepare and file, or shall cause to be prepared and filed, their own Tax Returns.

Section 3.03. Tax Reporting Practices.

(a) MMC General Rule. Except as provided in Section 3.03(c), MMC shall prepare any Tax Return which it has the obligation and right to prepare and file, or cause to be prepared and filed, under Section 3.01, in accordance with reasonable Tax accounting practices selected by MMC.

(b) MMI General Rule. Except as provided in Section 3.03(c), MMI shall prepare any Tax Return which it has the obligation and right to prepare and file, or cause to be prepared and filed, under Section 3.02, in accordance with reasonable tax accounting practices selected by MMI.

(c) Reporting of Separation Transactions. The Companies agree to report, and to cause the members of their respective Groups to report, the Tax treatment of the Separation Transactions on any Tax Return in a manner consistent with the Ruling Request and the Tax Opinions/Rulings, taking into account the jurisdiction in which such Tax Returns are filed.

Section 3.04. Consolidated or Combined Tax Returns. MMI will elect and join, and will cause its respective Affiliates to elect and join, in filing any Joint Returns that MMC determines are required to be filed or that MMC chooses to file pursuant to Section 3.01(a).

Section 3.05. Right to Review Tax Returns. The Responsible Company with respect to any material Tax Return shall make the portion of such Tax Return and related workpapers which are relevant to the determination of the other Company's rights or obligations under this Agreement available for review by the other Company to the extent (i) such Tax Return relates to Taxes for which the requesting party or its Affiliates would reasonably be expected to be liable either under this Agreement or pertinent Tax Law, (ii) such Tax Return relates to Taxes for which the requesting party would reasonably be expected to have a claim for Tax Benefits under this Agreement, or (iii) the requesting party reasonably determines that it must inspect such Tax Return to confirm compliance with the terms of this Agreement. The Responsible Company shall make such portion of such Tax Return

available for review by the other Company at least thirty (30) days prior to the scheduled filing date of such Tax Return (which shall be no later than the extended due date of such Tax Return). Such other Company shall provide to the Responsible Company any comments it may have with respect to such Tax Return within twenty (20) days after receipt of such Tax Return. The Companies shall attempt in good faith to resolve any issues arising out of the review of such Tax Return.

Section 3.06. MMI Carrybacks and Claims for Refund. MMI hereby agrees that, unless MMC consents in writing, (i) no Adjustment Request with respect to any Joint Return shall be filed, and (ii) any available elections to waive the right to claim in any Pre-Deconsolidation Period with respect to any Joint Return any MMI Carryback arising in a Post-Deconsolidation Period shall be made, and no affirmative election shall be made to claim any such MMI Carryback.

Section 3.07. Apportionment of Tax Attributes. MMC and MMI shall cooperate in good faith to determine the amount of any Tax Attributes that should be allocated or apportioned to the MMC Group and the MMI Group, respectively, under applicable law. If the Companies are not able to resolve any such issues regarding the allocation of such Tax Attributes, then the matter shall be resolved in the manner set forth in Section 13. The Companies shall prepare all Tax Returns in accordance with the determinations made pursuant to this Section 3.07.

Section 4. Tax Payments.

Section 4.01. Payment of Taxes With Respect to Certain Joint Returns. In the case of any Joint Return, at least three Business Days prior to any Payment Date in respect of any such Joint Return, MMC shall compute the amount of Tax required to be paid to the applicable Tax Authority (taking into account the requirements of Section 3.03 relating to reasonable accounting practices) with respect to such Joint Return on such Payment Date. MMC shall pay such amount to such Tax Authority on or before such Payment Date (and provide notice and proof of payment to MMI).

Section 4.02. Indemnification Payments.

(a) If any Company (the "**Payor**") is required under applicable Tax Law to pay to a Tax Authority a Tax that another Company (the "**Required Party**") is liable for under this Agreement, the Required Party shall reimburse the Payor within 20 Business Days of delivery by the Payor to the Required Party of an invoice for the amount due, accompanied by evidence of payment and a statement detailing the Taxes paid and describing in reasonable detail the particulars relating thereto. The reimbursement shall include interest on the Tax payment computed at the Prime Rate based on the number of days from the date of the payment to the Tax Authority to the date of reimbursement under this Section 4.03.

(b) All indemnification payments under this Agreement shall be made by MMC directly to MMI and by MMI directly to MMC; *provided, however,* that if the Companies mutually agree with respect to any such indemnification payment, any member of the MMC Group, on the one hand, may make such indemnification payment to any member of the MMI Group, on the other hand, and vice versa. All indemnification payments shall be treated in the manner described in Section 12.01.

Section 5. Tax Refunds.

Section 5.01. Tax Refunds. MMC (or the applicable MMC Entity) shall be entitled to any refund (and any interest thereon received from the applicable Tax Authority) of Taxes for which MMC (or any other MMC Entity) is liable hereunder. MMI (or the applicable MMI Entity) shall be entitled to any refund (and any interest thereon received from the applicable Tax Authority) of Taxes for which

MMI (or any other MMI Entity) is liable hereunder. A Company receiving a refund to which the other Company is entitled hereunder shall pay over such refund to such other Company within twenty (20) Business Days after such refund is received (together with interest computed at the Prime Rate based on the number of days from the date the refund was received to the date the refund was paid over).

Section 6. Tax-Free Status.

Section 6.01. Restrictions on MMI.

(a) MMI agrees that it will not take or fail to take, or permit any MMI Affiliate, as the case may be, to take or fail to take, any action (i) where such action or failure to act would be inconsistent with or cause to be untrue any statement, information, covenant or representation in any Ruling Request, Representation Letters or Tax Opinions/Rulings or (ii) which adversely affects or could reasonably be expected to adversely affect the Tax-Free Status of the Contribution, the Debt-for-Equity Exchange or the Distribution.

(b) MMI agrees that, from the date hereof until the first Business Day after the two-year anniversary of the final Distribution Date, it will (i) maintain its status as a company engaged in the Active Trade or Business for purposes of Section 355(b)(2) of the Code, (ii) not engage in any transaction that would result in it ceasing to be a company engaged in the Active Trade or Business for purposes of Section 355(b)(2) of the Code, (iii) cause each MMI Entity whose Active Trade or Business is relied upon in the Tax Opinions/Rulings for purposes of qualifying a transaction as tax-free pursuant to Section 355 of the Code or other Tax Law to maintain its status as a company engaged in such Active Trade or Business for purposes of Section 355(b)(2) of the Code and any such other applicable Tax Law and (iv) not engage in any transaction or permit an MMI Entity to engage in any transaction that would result in an MMI Entity described in clause (iii) hereof ceasing to be a company engaged in the relevant Active Trade or Business for purposes of Section 355(b)(2) or such other applicable Tax Law, taking into account Section 355(b)(3) of the Code for purposes of clauses (i) through (iv) hereof.

(c) MMI agrees that, from the date hereof until the first Business Day after the two-year anniversary of the final Distribution Date, it will not and will not permit any MMI Entity described in clause (iii) of Section 6.01(b) to take any action or actions (including any action or transaction that would be reasonably likely to be inconsistent with any representation made in any Ruling Request, Representation Letters or the Tax Opinions/Rulings) which in the aggregate would be reasonably likely to have the effect of causing or permitting one or more persons (whether or not acting in concert) to acquire directly or indirectly stock representing a Fifty Percent or Greater Interest in MMI or otherwise jeopardize the Tax-Free Status, unless prior to taking any such action, (A) MMI shall have requested that MMC obtain a Ruling in accordance with Sections 6.03(b) and (d) of this Agreement to the effect that such transaction will not affect the Tax-Free Status and MMC shall have received such a Ruling in form and substance satisfactory to MMC, (B) MMI shall provide MMC with an Unqualified Tax Opinion in form and substance satisfactory to MMC, or (C) MMC shall have waived the requirement to obtain such Ruling or Unqualified Tax Opinion.

Section 6.02. Restrictions on MMC.

(a) MMC agrees that it will not take or fail to take, or permit any MMC Affiliate, as the case may be, to take or fail to take, any action (i) where such action or failure to act would be inconsistent with or cause to be untrue any statement, information, covenant or representation in any Ruling Request, Representation Letters or Tax Opinions/ Rulings, or (ii) which adversely affects or could reasonably be expected to adversely affect the Tax-Free Status of the Contribution, the Debt-for-Equity Exchange or the Distribution; *provided, however*, that this Section 6.02 shall not be construed as obligating MMC to consummate the Contribution, the Debt-for-Equity Exchange or the Distribution.

(b) MMC agrees that, from the date hereof until the first Business Day after the two-year anniversary of the final Distribution Date, it will (i) maintain its status as a company engaged in the Active Trade or Business for purposes of Section 355(b)(2) of the Code, (ii) not engage in any transaction that would result in it ceasing to be a company engaged in the Active Trade or Business for purposes of Section 355(b)(2) of the Code, (iii) cause each MMC Entity whose Active Trade or Business is relied upon in the Tax Opinions/Rulings for purposes of qualifying a transaction as tax-free pursuant to Section 355 of the Code or other Tax Law to maintain its status as a company engaged in such Active Trade or Business for purposes of Section 355(b)(2) of the Code and any such other applicable Tax Law and (iv) not engage in any transaction or permit an MMC Entity to engage in any transaction that would result in an MMC Entity described in clause (iii) hereof ceasing to be a company engaged in the relevant Active Trade or Business for purposes of Section 355(b)(2) or such other applicable Tax Law, taking into account Section 355(b)(3) of the Code for purposes of clauses (i) through (iv) hereof.

(c) MMC agrees that, from the date hereof until the first Business Day after the two-year anniversary of the final Distribution Date, it will not and will not permit any MMC Entity described in clause (iii) of Section 6.02(b) to take any action or actions (including any action or transaction that would be reasonably likely to be inconsistent with any representation made in any Ruling Request, Representation Letters or the Tax Opinions/Rulings) which would be reasonably likely to jeopardize the Tax-Free Status, unless prior to taking any such action, (A) MMC shall have obtained a Ruling in accordance with Section 6.03(c) of this Agreement to the effect that such transaction will not affect the Tax-Free Status, MMC shall have provided a copy of such Ruling to MMI, and such Ruling shall be in form and substance satisfactory to MMI, (B) MMC shall provide MMI with an Unqualified Tax Opinion in form and substance satisfactory to MMI, or (C) MMI shall have waived the requirement to obtain such Ruling or Unqualified Tax Opinion.

Section 6.03. Procedures Regarding Opinions and Rulings.

(a) If MMI notifies MMC that it desires to take one of the actions described in Section 6.01(c) (a "**Notified Action**"), MMC and MMI shall reasonably cooperate to attempt to obtain the Ruling (if potentially available) or Unqualified Tax Opinion referred to in Section 6.01(c), unless MMC shall have waived the requirement to obtain such Ruling or Unqualified Tax Opinion.

(b) MMC agrees that at the reasonable request of MMI pursuant to Section 6.01(c), MMC shall cooperate with MMI and use commercially reasonable efforts to seek to obtain, as expeditiously as possible, a Ruling (if potentially available) or an Unqualified Tax Opinion for the purpose of permitting MMI to take the Notified Action. In no event shall MMC be required to file any Ruling Request under this Section 6.03(b) unless MMI represents that (A) it has read the Ruling Request, and (B) all information and representations, if any, relating to any member of the MMI Group, contained in the Ruling Request documents are (subject to any qualifications therein) true, correct and complete. MMI shall reimburse MMC for all reasonable costs and expenses, including expenses relating to the utilization of MMC Group personnel, incurred by the MMC Group in obtaining a Ruling or Unqualified Tax Opinion requested by MMI within ten Business Days after receiving an invoice from MMC therefor.

(c) MMC shall have the right to obtain a Ruling or an Unqualified Tax Opinion at any time in its discretion in order to enable MMC or any other MMC Entity to take any actions described in Section 6.02(c). If MMC determines to obtain a Ruling or an Unqualified Tax Opinion, MMI shall (and

shall cause each Affiliate of MMI to) cooperate with MMC and use commercially reasonable efforts to take any and all actions reasonably requested by MMC in connection with obtaining the Ruling or Unqualified Tax Opinion (including, without limitation, by making any representation or covenant or providing any materials or information requested by the IRS or Tax Advisor; provided that MMI shall not be required to make (or cause any Affiliate of MMI to make) any representation or covenant that is inconsistent with historical facts or as to future matters or events over which it has no control); provided further that MMI shall not be required to make any representation or covenant with respect to a Ruling Request unless MMC represents that (A) it has read the Ruling Request, and (B) all information and representations, if any, relating to any member of the MMC Group, contained in the Ruling Request documents are (subject to any qualifications therein) true, correct and complete. MMC shall reimburse MMI for all reasonable costs and expenses, including expenses relating to the utilization of MMI Group personnel, incurred by the MMI Group in connection with such cooperation within ten Business Days after receiving an invoice from MMI therefor.

(d) MMI hereby agrees that MMC shall have sole and exclusive control over the process of obtaining any Ruling, and that only MMC shall apply for a Ruling. In connection with obtaining a Ruling pursuant to Section 6.03(b), (A) MMC shall keep MMI informed in a timely manner of all material actions taken or proposed to be taken by MMC in connection therewith; (B) MMC shall (1) reasonably in advance of the submission of any Ruling Request documents provide MMI with a draft copy thereof, (2) reasonably consider MMI's comments on such draft copy, and (3) provide MMI with a final copy; and (C) MMC shall provide MMI with notice reasonably in advance of, and MMI shall have the right to attend, any formally scheduled meetings with the IRS (subject to the approval of the IRS) that relate to such Ruling. Neither MMI nor any MMI Affiliate shall independently seek any guidance from the IRS or any other Tax Authority (whether written, verbal or otherwise) at any time concerning the Contribution, the Debt-for-Equity Exchange or the Distribution (including the impact of any other transaction on the Contribution, the Debt-for-Equity Exchange or the Distribution).

Section 6.04. Liability for Tax-Related Losses.

(a) Notwithstanding anything in this Agreement to the contrary (and in each case regardless of whether Ruling, Unqualified Tax Opinion or waiver described in clause (A), (B) or (C) of Section 6.01(c) may have been provided), subject to Section 6.04(c), MMI shall be responsible for, and shall indemnify and hold harmless MMC and its Affiliates and each of their respective officers, directors and employees from and against, one hundred percent (100%) of any Tax-Related Losses that are attributable to or result from any one or more of the following: (A) the acquisition (other than pursuant to the Contribution, the Debt-for-Equity Exchange, the IPO, or the Distribution) of all or a portion of MMI's stock, the stock of its subsidiaries and/or its or its subsidiaries' assets by any means whatsoever by any Person, (B) any negotiations, understandings, agreements or arrangements by MMI with respect to transactions or events (including, without limitation, stock issuances pursuant to the exercise of stock options or otherwise, option grants, capital contributions or acquisitions, or a series of such transactions or events) that cause the Distribution to be treated as part of a plan pursuant to which one or more Persons acquire directly or indirectly stock of MMI representing a Fifty Percent or Greater Interest therein, (C) any act or failure to act by MMI or any MMI Affiliate described in Section 6.01 (regardless of whether such act or failure to act may be covered by a Ruling, Unqualified Tax Opinion or waiver described in clause (A), (B) or (C) of Section 6.01(c)) or (D) any breach by MMI of its agreement and representations set forth in Section 6.01.

(b) Notwithstanding anything in this Agreement to the contrary (and in each case regardless of whether a Ruling, Unqualified Tax Opinion or waiver described in clause (A), (B) or (C) of Section 6.02(c) may have been provided), subject to Section 6.04(c), MMC shall be responsible for, and shall indemnify and hold harmless MMI and its Affiliates and each of their respective officers,

directors and employees from and against, one hundred percent (100%) of any Tax-Related Losses that are attributable to, or result from any one or more of the following: (A) the acquisition (other than pursuant to the Contribution, the Debt-for-Equity Exchange, the IPO, or the Distribution) of all or a portion of MMC's stock, the stock of its subsidiaries and/or its assets by any means whatsoever by any Person, (B) any negotiations, understandings, agreements or arrangements by MMC with respect to transactions or events (including, without limitation, stock issuances pursuant to the exercise of stock options or otherwise, option grants, capital contributions or acquisitions, or a series of such transactions or events) that cause the Distribution to be treated as part of a plan pursuant to which one or more Persons acquire directly or indirectly stock of MMC representing a Fifty Percent or Greater Interest therein, (C) any act or failure to act by MMC or a member of the MMC Group described in Section 6.02 (regardless of whether such act or failure to act may be covered by a Ruling, Unqualified Tax Opinion or waiver described in clause (A), (B) or (C) of Section 6.02(c)) or (D) any breach by MMC of its agreement and representations set forth in Section 6.02.

(c) (i) To the extent that any Tax-Related Loss is subject to indemnity under both Sections 6.04(a) and (b), responsibility for such Tax-Related Loss shall be shared by MMC and MMI according to relative fault.

(ii) Notwithstanding anything in Section 6.04(b) or (c)(i) or any other provision of this Agreement to the contrary, with respect to (I) any Tax-Related Loss resulting from Section 355(e) of the Code (other than as a result of an acquisition of a Fifty Percent or Greater Interest in MMC) and (II) any other Tax-Related Loss resulting (for the absence of doubt, in whole or in part) from (i) an acquisition after the Distribution of any stock or assets of MMI (or any other MMI Entity) by any means whatsoever by any Person or (ii) any action or failure to act by MMI affecting the voting rights of MMI stock, MMI shall be responsible for, and shall indemnify and hold harmless MMC and its Affiliates and each of their respective officers, directors and employees from and against, one hundred percent (100%) of such Tax-Related Loss.

(iii) Notwithstanding anything in Section 6.04(a) or (c)(i) or any other provision of this Agreement to the contrary, with respect to (I) any Tax-Related Loss resulting from Section 355(e) of the Code (other than as a result of an acquisition of a Fifty Percent or Greater Interest in MMI) and (II) any other Tax-Related Loss resulting (for the absence of doubt, in whole or in part) from (i) an acquisition after the Distribution of any stock or assets of MMC (or any other MMC Entity) by any means whatsoever by any Person or (ii) any action or failure to act by MMC affecting the voting rights of MMC stock, MMC shall be responsible for, and shall indemnify and hold harmless MMI and its Affiliates and each of their respective officers, directors and employees from and against, one hundred percent (100%) of such Tax-Related Loss.

(d) MMI shall pay the MMC the amount of any Tax-Related Losses described in clause (i) of the definition of Tax-Related Losses for which MMI is responsible under this Section 6.04 no later than two Business Days prior to the date MMC files, or causes to be filed the applicable Tax Return for the year of the Contribution or Distribution, as applicable (the "**Filing Date**") (provided that if such Tax-Related Losses arise pursuant to a Final Determination described in clause (i), (ii) or (iii) of the definition of "Final Determination," then such payment shall be made no later than two Business Days after the date of such Final Determination with interest calculated at the Prime Rate plus two percent, compounded semiannually, from the date that is two Business Days prior to the Filing Date through the date of such Final Determination). MMI shall pay MMC the amount of any Tax-Related Losses described in clause (ii) or (iii) of the definition of Tax-Related Losses for which MMI is responsible under this Section 6.04 no later than two Business Days after the date MMC pays such Tax-Related

Losses. MMC shall pay MMI the amount of any Tax-Related Losses described in clause (ii) or (iii) of the definition of Tax-Related Loss for which MMC is responsible under this Section 6.04 no later than two Business Days after the date MMI pays such Tax-Related Losses.

Section 7. Assistance and Cooperation.

Section 7.01. Assistance and Cooperation.

(a) The Companies shall cooperate (and cause their respective Affiliates to cooperate) with each other and with each other's agents, including accounting firms and legal counsel, in connection with Tax matters relating to the Companies and the members of their respective Groups, including (i) the preparation and filing of Tax Returns, (ii) determining the liability for and amount of any Taxes due (including estimated Taxes) or the right to and amount of any refund of Taxes, (iii) examinations of Tax Returns, and (iv) any administrative or judicial proceeding in respect of Taxes assessed or proposed to be assessed. Such cooperation shall include making all information and documents in their possession relating to the other Company and the members of its Group and pertinent to the matters described in the preceding sentence available to such other Company as provided in Section 8. Each of the Companies shall also make available to the other, as reasonably requested and available, personnel (including officers, directors, employees and agents of the Companies or their respective Affiliates) responsible for preparing, maintaining, and interpreting information and documents relevant to Taxes covered by this Agreement, and personnel reasonably required as witnesses or for purposes of providing information or documents in connection with any administrative or judicial proceedings relating to such Taxes. In the event that a member of the MMC Group, on the one hand, or a member of the MMI Group, on the other hand, suffers a Tax detriment as a result of a Transfer Pricing Adjustment, the Companies shall cooperate pursuant to this Section 7 to seek any competent authority relief that may be available with respect to such Transfer Pricing Adjustment. MMI shall cooperate with MMC and take any and all actions reasonably requested by MMC in connection with obtaining the Tax Opinions/Rulings (including, without limitation, by making any new representation or covenant, confirming any previously made representation or covenant or providing any materials or information requested by any Tax Advisor or Tax Authority; provided that, MMI shall not be required to make or confirm any representation or covenant that is inconsistent with historical facts or as to future matters or events over which it has no control).

(b) Any information or documents provided under this Section 7 shall be kept confidential by the Company receiving the information or documents, except as may otherwise be necessary in connection with the filing of Tax Returns or in connection with any administrative or judicial proceedings relating to Taxes. Notwithstanding any other provision of this Agreement or any other agreement, (i) neither MMC nor any MMC Affiliate shall be required to provide MMI or any MMI Affiliate or any other Person access to or copies of any information (including the proceedings of any Tax Contest) other than information that relates to MMI, the business or assets of MMI or any MMI Affiliate, or MMI's rights and obligations under this Agreement and (ii) in no event shall MMC or any MMC Affiliate be required to provide MMI, any MMI Affiliate or any other Person access to or copies of any information if such action could reasonably be expected to result in the waiver of any Privilege. In addition, in the event that MMC determines that the provision of any information to MMI or any MMI Affiliate could be commercially detrimental, violate any law or agreement or waive any Privilege, the parties shall use reasonable best efforts to permit compliance with its obligations under this Section 7 in a manner that avoids any such harm or consequence. Notwithstanding any other provision of this Agreement or any other agreement, (i) neither MMI nor any MMI Affiliate shall be required to provide MMC or any MMC Affiliate or any other Person access to or copies of any information (including the proceedings of any Tax Contest) other than information that relates to MMC, the business or assets of MMC or any MMC Affiliate or MMC's rights and obligations under this Agreement and (ii)

in no event shall MMI or any MMI Affiliate be required to provide MMC, any MMC Affiliate or any other Person access to or copies of any information if such action could reasonably be expected to result in the waiver of any Privilege. In addition, in the event that MMI determines that the provision of any information to MMC or any MMC Affiliate could be commercially detrimental, violate any law or agreement or waive any Privilege, the parties shall use reasonable best efforts to permit compliance with its obligations under this Section 7 in a manner that avoids any such harm or consequence.

Section 7.02. Income Tax Return Information. MMI and MMC acknowledge that time is of the essence in relation to any request for information, assistance or cooperation made by MMC or MMI pursuant to Section 7.01 or this Section 7.02. MMI and MMC acknowledge that failure to conform to the reasonable deadlines set by MMC or MMI could cause irreparable harm. Each Company shall provide to the other Company information and documents relating to its Group required by the other Company to prepare Tax Returns, including, but not limited to, any pro forma returns required by the Responsible Company for purposes of preparing such Tax Returns. Any information or documents the Responsible Company requires to prepare such Tax Returns shall be provided in such form as the Responsible Company reasonably requests and at or prior to the time reasonably specified by the Responsible Company so as to enable the Responsible Company to file such Tax Returns on a timely basis.

Section 7.03. Reliance by MMC. If any member of the MMI Group supplies information to a member of the MMC Group in connection with a Tax liability and an officer of a member of the MMC Group signs a statement or other document under penalties of perjury in reliance upon the accuracy of such information, then upon the written request of such member of the MMC Group identifying the information being so relied upon, the chief financial officer of MMI (or any officer of MMI as designated by the chief financial officer of MMI) shall certify in writing that to his or her knowledge (based upon consultation with appropriate employees) the information so supplied is accurate and complete.

Section 7.04. Reliance by MMI. If any member of the MMC Group supplies information to a member of the MMI Group in connection with a Tax liability and an officer of a member of the MMI Group signs a statement or other document under penalties of perjury in reliance upon the accuracy of such information, then upon the written request of such member of the MMI Group identifying the information being so relied upon, the chief financial officer of MMC (or any officer of MMC as designated by the chief financial officer of MMC) shall certify in writing that to his or her knowledge (based upon consultation with appropriate employees) the information so supplied is accurate and complete.

Section 8. Tax Records.

Section 8.01. Retention of Tax Records. Each Company shall preserve and keep all Tax Records exclusively relating to the assets and activities of its Group for Pre-Deconsolidation Periods, and MMC shall preserve and keep all other Tax Records relating to Taxes of the Groups for Pre-Deconsolidation Tax Periods, for so long as the contents thereof may become material in the administration of any matter under the Code or other applicable Tax Law, but in any event until the later of (i) the expiration of any applicable statutes of limitations, or (ii) seven years after the Deconsolidation Date (such later date, the "**Retention Date**"). After the Retention Date, each Company may dispose of such Tax Records upon 60 Business Days' prior written notice to the other Company. If, prior to the Retention Date, (a) a Company reasonably determines that any Tax Records which it would otherwise be required to preserve and keep under this Section 8 are no longer material in the administration of any matter under the Code or other applicable Tax Law and the other Company agrees, then such first Company may dispose of such Tax Records upon 60 Business Days' prior notice to the other Company.

Any notice of an intent to dispose given pursuant to this Section 8.01 shall include a list of the Tax Records to be disposed of describing in reasonable detail each file, book, or other record being disposed. The notified Company shall have the opportunity, at its cost and expense, to copy or remove, within such 60 Business Day period, all or any part of such Tax Records. If, at any time prior to the Retention Date, one of the Companies determines to decommission or otherwise discontinue any computer program or information technology system used to access or store any Tax Records, then such Company may decommission or discontinue such program or system upon 90 days' prior notice to the other Company and the other Company shall have the opportunity, at its cost and expense, to copy, within such 60 Business Day period, all or any part of the underlying data relating to the Tax Records accessed by or stored on such program or system.

Section 8.02. Access to Tax Records. Each Company shall, and shall cause the members of its Group to, make available to the other Company for inspection and copying during normal business hours upon reasonable notice all Tax Records (and, for the avoidance of doubt, any pertinent underlying data accessed or stored on any computer program or information technology system) in their possession and each Company shall permit the other Company and its Affiliates, authorized agents and representatives and any representative of a Taxing Authority or other Tax auditor direct access, at the cost and expense of such other Company, during normal business hours upon reasonable notice to any computer program or information technology system used to access or store any Tax Records, in each case to the extent reasonably required by the other Company in connection with the preparation of Tax Returns or financial accounting statements, audits, litigation, or the resolution of items under this Agreement.

Section 8.03. Preservation of Privilege. Notwithstanding anything to the contrary herein, no member of either Company's Group shall provide access to, copies of, or otherwise disclose to any Person any documentation relating to Taxes existing as of the date hereof to which Privilege may reasonably be asserted without the prior written consent of the other Company, such consent not to be unreasonably withheld.

Section 9. Tax Contests.

Section 9.01. Notice. Each of the Companies shall provide prompt notice to the other Company of any written communication from a Tax Authority regarding any pending Tax audit, assessment or proceeding or other Tax Contest of which it becomes aware related to Taxes for Tax Periods for which it is indemnified by the other Company hereunder or for which it may be required to indemnify the other Company hereunder. Such notice shall attach copies of the pertinent portion of any written communication from a Tax Authority and contain factual information (to the extent known) describing any asserted Tax liability in reasonable detail and shall be accompanied by copies of any notice and other documents received from any Tax Authority in respect of any such matters. If an indemnified party has knowledge of an asserted Tax liability with respect to a matter for which it is to be indemnified hereunder and such party fails to give the indemnifying party prompt notice of such asserted Tax liability and the indemnifying party is entitled under this Agreement to contest the asserted Tax liability, then (i) if the indemnifying party is precluded from contesting the asserted Tax liability in any forum as a result of the failure to give prompt notice, the indemnifying party shall have no obligation to indemnify the indemnified party for any Taxes arising out of such asserted Tax liability, and (ii) if the indemnifying party is not precluded from contesting the asserted Tax liability in any forum, but such failure to give prompt notice results in a material monetary detriment to the indemnifying party, then any amount which the indemnifying party is otherwise required to pay the indemnified party pursuant to this Agreement shall be reduced by the amount of such detriment.

Section 9.02. Control of Tax Contests.

(a) Separate Returns. The Company having the liability for any Tax pursuant to Section 2 hereof shall have exclusive control over the Tax Contest in respect of such Tax liability, including exclusive authority with respect to any settlement of such Tax liability, subject to Sections 9.02(c) and (d) below.

(b) Joint Returns. For purposes of clarity, in the case of any Tax Contest with respect to any Joint Return, MMC shall have exclusive control over the Tax Contest in respect of such Joint Return, including exclusive authority with respect to any settlement of such Tax liability, subject to Sections 9.02(c) and (d) below.

(c) Settlement Rights. The Controlling Party shall have the sole right to contest, litigate, compromise and settle any Tax Contest without obtaining the prior consent of the Non-Controlling Party. Unless waived by the parties in writing, in connection with any potential adjustment in a Tax Contest as a result of which adjustment the Non-Controlling Party may reasonably be expected to become liable to make any indemnification payment to the Controlling Party under this Agreement: (i) the Controlling Party shall keep the Non-Controlling Party informed in a timely manner of all actions taken or proposed to be taken by the Controlling Party with respect to such potential adjustment in such Tax Contest; (ii) the Controlling Party shall timely provide the Non-Controlling Party copies of any written materials relating to such potential adjustment in such Tax Contest received from any Tax Authority; (iii) the Controlling Party shall timely provide the Non-Controlling Party with copies of any correspondence or filings submitted to any Tax Authority or judicial authority in connection with such potential adjustment in such Tax Contest; (iv) the Controlling Party shall consult with the Non-Controlling Party and offer the Non-Controlling Party a reasonable opportunity to comment before submitting any written materials prepared or furnished in connection with such potential adjustment in such Tax Contest; and (v) the Controlling Party shall defend such Tax Contest diligently and in good faith. The failure of the Controlling Party to take any action specified in the preceding sentence with respect to the Non-Controlling Party shall not relieve the Non-Controlling Party of any liability and/or obligation which it may have to the Controlling Party under this Agreement in respect of such Tax Contest except to the extent that the Non-Controlling Party was actually harmed by such failure, and in no event shall such failure relieve the Non-Controlling Party from any other liability or obligation which it may have to the Controlling Party. If the Non-Controlling Party may reasonably be expected to become liable to make any indemnification payment to the Controlling Party under this Agreement as a result of a Tax Contest, then the Non-Controlling party shall have the right, at its sole cost and expense, to participate in such Tax Contest and the Controlling Party shall not settle or otherwise resolve such Tax Contest without the Non-Controlling Party's consent, with such consent not to be unreasonably withheld. In the case of any Tax Contest described in Section 9.02(a) or (b), "**Controlling Party**" means the Company entitled to control the Tax Contest under such Section and "**Non-Controlling Party**" means the other Company.

(d) Power of Attorney. Each member of the MMI Group shall execute and deliver to MMC (or such member of the MMC Group as MMC shall designate) any power of attorney or other similar document reasonably requested by MMC (or such designee) in connection with any Tax Contest (as to which MMC is the Controlling Party) described in this Section 9. Each member of the MMC Group shall execute and deliver to MMI (or such member of the MMI Group as MMI shall designate) any power of attorney or other similar document requested by MMI (or such designee) in connection with any Tax Contest (as to which MMI is the Controlling Party) described in this Section 9.

Section 10. Effective Date. This Agreement shall be effective as of the date hereof.

Section 11. Survival of Obligations. The representations, warranties, covenants and agreements set forth in this Agreement shall be unconditional and absolute and shall remain in effect without limitation as to time.

Section 12. Treatment of Payments.

Section 12.01. Treatment of Tax Indemnity Payments. In the absence of any change in Tax treatment under the Code or except as otherwise required by other applicable Tax Law, any Tax indemnity payments made by a Company under this Agreement shall be reported for Tax purposes by the payor and the recipient as distributions or capital contributions, as appropriate, occurring immediately before the Deconsolidation (but only to the extent the payment does not relate to a Tax allocated to the payor in accordance with Section 1552 of the Code or the regulations thereunder or Treasury Regulation Section 1.1502-33(d) (or under corresponding principles of other applicable Tax Laws)) or as payments of an assumed or retained liability. Except to the extent provided in Section 12.02, any Tax indemnity payment made by a Company under this Agreement shall be increased as necessary so that after making all payments in respect to Taxes imposed on or attributable to such indemnity payment, the recipient Company receives an amount equal to the sum it would have received had no such Taxes been imposed.

Section 12.02. Interest Under This Agreement. Anything herein to the contrary notwithstanding, to the extent one Company ("**Indemnitor**") makes a payment of interest to another Company ("**Indemnitee**") under this Agreement with respect to the period from the date that the Indemnitee made a payment of Tax to a Tax Authority to the date that the Indemnitor reimbursed the Indemnitee for such Tax payment, the amount of such payment shall not be adjusted to take into account any associated Tax Benefit to the Indemnitor or increase in Tax to the Indemnitee resulting from the interest payment being treated as interest expense to the Indemnitor (and deductible to the extent provided by law) and as interest income by the Indemnitee (and includible in income to the extent provided by law).

Section 13. Disagreements.

Section 13.01. Discussion. The Companies mutually desire that friendly collaboration will continue between them. Accordingly, they will try, and they will cause their respective Group members to try, to resolve in an amicable manner all disagreements and misunderstandings connected with their respective rights and obligations under this Agreement, including any amendments hereto. In furtherance thereof, in the event of any dispute or disagreement (a "**Dispute**") between any member of the MMC Group and any member of the MMI Group as to the interpretation of any provision of this Agreement or the performance of obligations hereunder, the Tax departments of the Companies shall negotiate in good faith to resolve the Dispute.

Section 13.02. Escalation. If such good faith negotiations do not resolve the Dispute, then the matter, upon written request of either Company, will be referred for resolution to representatives of the parties at a senior level of management of the parties.

Section 13.03. Referral to Tax Advisor. If the parties are not able to resolve the Dispute through the escalation process referred to above, then the matter will be referred to a Tax Advisor acceptable to each of the Companies to act as an arbitrator in order to resolve the Dispute. In the event that the Companies are unable to agree upon a Tax Advisor within 15 Business Days following the completion of the escalation process, the Companies shall each separately retain an independent,

nationally recognized law or accounting firm (each, a "**Preliminary Tax Advisor**"), which Preliminary Tax Advisors shall jointly select a Tax Advisor on behalf of the Companies to act as an arbitrator in order to resolve the Dispute. The Tax Advisor may, in its discretion, obtain the services of any third-party appraiser, accounting firm or consultant that the Tax Advisor deems necessary to assist it in resolving such disagreement. The Tax Advisor shall furnish written notice to the Companies of its resolution of any such Dispute as soon as practical, but in any event no later than 30 Business Days after its acceptance of the matter for resolution. Any such resolution by the Tax Advisor will be conclusive and binding on the Companies. Following receipt of the Tax Advisor's written notice to the Companies of its resolution of the Dispute, the Companies shall each take or cause to be taken any action necessary to implement such resolution of the Tax Advisor. Each Company shall pay its own fees and expenses (including the fees and expenses of its representatives) incurred in connection with the referral of the matter to the Tax Advisor (and the Preliminary Tax Advisors, if any). All fees and expenses of the Tax Advisor (and the Preliminary Tax Advisors, if any) in connection with such referral shall be shared equally by the Companies.

Section 13.04. Injunctive Relief. Nothing in this Section 13 will prevent either Company from seeking injunctive relief if any delay resulting from the efforts to resolve the Dispute through the process set forth above could result in serious and irreparable injury to either Company. Notwithstanding anything to the contrary in this Agreement, MMC and MMI are the only members of their respective Groups entitled to commence a dispute resolution procedure under this Agreement, and each of MMC and MMI will cause its respective Group members not to commence any dispute resolution procedure other than through such party as provided in this Section 13.

Section 14. Late Payments. Any amount owed by one party to another party under this Agreement which is not paid when due shall bear interest at the Prime Rate plus two percent, compounded semiannually, from the due date of the payment to the date paid. To the extent interest required to be paid under this Section 14 duplicates interest required to be paid under any other provision of this Agreement, interest shall be computed at the higher of the interest rate provided under this Section 14 or the interest rate provided under such other provision.

Section 15. Expenses. Except as otherwise provided in this Agreement, each party and its Affiliates shall bear their own expenses incurred in connection with preparation of Tax Returns, Tax Contests, and other matters related to Taxes under the provisions of this Agreement.

Section 16. General Provisions.

Section 16.01. Addresses and Notices. Each party giving any notice required or permitted under this Agreement will give the notice in writing and use one of the following methods of delivery to the party to be notified, at the address set forth below or another address of which the sending party has been notified in accordance with this Section 16.01: (a) personal delivery; (b) facsimile or telecopy transmission with a reasonable method of confirming transmission; (c) commercial overnight courier with a reasonable method of confirming delivery; or (d) pre-paid, United States of America certified or registered mail, return receipt requested. Notice to a party is effective for purposes of this Agreement only if given as provided in this Section 16.01 and shall be deemed given on the date that the intended addressee actually receives the notice.

If to MMC:

Marcus & Millichap Company
777 South California Avenue
Palo Alto, CA 94304

If to MMI:

Marcus & Millichap, Inc.
23975 Park Sorrento, Suite 400
Calabasas, CA 91302

A party may change the address for receiving notices under this Agreement by providing written notice of the change of address to the other parties.

Section 16.02. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

Section 16.03. Waiver. The parties may waive a provision of this Agreement only by a writing signed by the party intended to be bound by the waiver. A party is not prevented from enforcing any right, remedy or condition in the party's favor because of any failure or delay in exercising any right or remedy or in requiring satisfaction of any condition, except to the extent that the party specifically waives the same in writing. A written waiver given for one matter or occasion is effective only in that instance and only for the purpose stated. A waiver once given is not to be construed as a waiver for any other matter or occasion. Any enumeration of a party's rights and remedies in this Agreement is not intended to be exclusive, and a party's rights and remedies are intended to be cumulative to the extent permitted by law and include any rights and remedies authorized in law or in equity.

Section 16.04. Severability. If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the remaining provisions of this Agreement remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding and enforceable.

Section 16.05. Authority. Each of the parties represents to the other that (a) it has the corporate or other requisite power and authority to execute, deliver and perform this Agreement, (b) the execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate or other action, (c) it has duly and validly executed and delivered this Agreement, and (d) this Agreement is a legal, valid and binding obligation, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and general equity principles.

Section 16.06. Further Action. The parties shall execute and deliver all documents, provide all information, and take or refrain from taking action as may be necessary or appropriate to achieve the purposes of this Agreement, including the execution and delivery to the other parties and their Affiliates and representatives of such powers of attorney or other authorizing documentation as is reasonably necessary or appropriate in connection with Tax Contests (or portions thereof) under the control of such other parties in accordance with Section 9.

Section 16.07. Integration. This Agreement, together with each of the exhibits and schedules appended hereto, contains the entire agreement between the Companies with respect to the subject matter hereof and supersedes all other agreements, whether or not written, in respect of any Tax matters covered by this Agreement between or among any member or members of the MMC Group, on the one hand, and any member or members of the MMI Group, on the other hand. All such other agreements, including prior tax allocation or tax sharing agreements between members of the MMC Group and/or members of the MMI Group, shall be of no further effect between the Companies, and the Companies and their Affiliates shall have no remaining rights or obligations existing thereunder. In the event of any inconsistency between this Agreement or any other agreements relating to the transactions contemplated by the Separation Transactions, with respect to the subject matter hereof, the provisions of this Agreement shall control. Each of the Companies is executing this Agreement on behalf of the members of its Group, intending such members to be bound by the terms hereof.

Section 16.08. Construction. The language in all parts of this Agreement shall in all cases be construed according to its fair meaning and shall not be strictly construed for or against any party. The captions, titles and headings included in this Agreement are for convenience only, and do not affect this Agreement's construction or interpretation. Unless otherwise indicated, all "Section" references in this Agreement are to sections of this Agreement.

Section 16.09. No Double Recovery. No provision of this Agreement shall be construed to provide an indemnity or other recovery for any costs, damages, or other amounts for which the damaged party has been fully compensated under any other provision of this Agreement or under any other agreement or action at law or equity. Unless expressly required in this Agreement, a party shall not be required to exhaust all remedies available under other agreements or at law or equity before recovering under the remedies provided in this Agreement.

Section 16.10. Counterparts. The parties may execute this Agreement in multiple counterparts, each of which constitutes an original as against the party that signed it, and all of which together constitute one agreement. This Agreement is effective upon delivery of one executed counterpart from each party to the other party. The signatures of the parties need not appear on the same counterpart. The delivery of signed counterparts by facsimile or email transmission that includes a copy of the sending party's signature is as effective as signing and delivering the counterpart in person.

Section 16.11. Governing Law. The internal laws of the State of California (without reference to its principles of conflicts of law) govern the construction, interpretation and other matters arising out of or in connection with this Agreement and each of the exhibits and schedules hereto and thereto (whether arising in contract, tort, equity or otherwise).

Section 16.12. Jurisdiction. If any dispute arises out of or in connection with this Agreement, except as expressly contemplated by another provision of this Agreement, the parties irrevocably (and the parties will cause each other member of their respective Group to irrevocably) (a) consent and submit to the exclusive jurisdiction of federal and state courts located in California, (b) waive any objection to that choice of forum based on venue or to the effect that the forum is not convenient, and (c) WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO TRIAL OR ADJUDICATION BY JURY.

Section 16.13. Amendment. The parties may amend this Agreement only by a written agreement signed by each party to be bound by the amendment and that identifies itself as an amendment to this Agreement.

Section 16.14. Subsidiaries. If, at any time, a Company acquires or creates one or more subsidiaries that are includable in such Company's Group, they shall be subject to this Agreement and all references to such Company's Group herein shall thereafter include a reference to such subsidiaries.

Section 16.15. Injunctions. The parties acknowledge that irreparable damage would occur in the event that any of the provisions of this Agreement, including Section 6.01, were not performed in accordance with its specific terms or were otherwise breached. The parties hereto shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Agreement, including Sections 6.01 and 6.02, and to enforce specifically the terms and provisions hereof in any court having jurisdiction, such remedy being in addition to any other remedy to which they may be entitled at law or in equity.

[Signature page follows]

IN WITNESS WHEREOF, each party has caused this Agreement to be executed on its behalf by a duly authorized officer on the date first set forth above.

Marcus & Millichap Company

By: /s/ Alexander Yarmolinsky

Title: Chief Financial Officer

By: /s/ Robert T. Alden

Title: Vice President, Finance

Marcus & Millichap, Inc.

By: /s/ Martin E. Louie
Martin E. Louie, Chief Financial Officer

Exhibit 10.3

TRANSITION SERVICES AGREEMENT

THIS TRANSITION SERVICES AGREEMENT (this "Agreement") is made and entered into as of this 31st day of October, 2013 between Marcus & Millichap, Inc., a Delaware corporation ("MMI"), and Marcus & Millichap Company, a California corporation, and its subsidiary M&M Corporate Services, Inc., a California corporation (together referred to herein as "MMC") (collectively, the "parties" or individually a "party").

WHEREAS, MMI and MMC have entered into a Separation and Distribution Agreement dated as of October 31, 2013 (the "Separation Agreement") which, among other matters, contemplates that one or more parties thereto will provide, or cause one or more of its Subsidiaries to provide, to the other parties and their respective Subsidiaries, certain transitional, administrative and support services on the terms set forth in this Agreement. Each party when providing a service under this Agreement (together with any Subsidiaries or Affiliates providing services) is referred to as "Provider" and each party when receiving a service under this Agreement (together with any Subsidiaries or Affiliates receiving services) is referred to as "Recipient."

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

ARTICLE I

SERVICES PROVIDED

1.1 Transition Services.

(a) Upon the terms and subject to the conditions of this Agreement, the relevant Provider shall provide to the relevant Recipient the services indicated on the Schedules hereto (each, a "Transition Service" and, collectively, the "Transition Services") during the time period for such Transition Service set forth in the applicable Schedule (each, a "Time Period").

(b) Subject to the other provisions of this Agreement, the Transition Services set forth on such Schedules may be amended from time to time, as the relevant parties shall agree in writing to add, omit or redefine any of the Transition Services, the term for which such Transition Services are to be rendered and/or the compensation therefor.

1.2 Personnel.

(a) Each party in its capacity as Provider shall make a sufficient number of competent employees (and/or third party contractors to the extent that third party services are routinely utilized to provide similar services to other businesses of such Provider or are reasonably necessary for the efficient performance of any Transition Service) to render the Transition Services to be provided under this Agreement when required, for so long as Provider provides said services to itself. Except to the extent specific individuals are designated on a

Schedule, a Provider of a Transition Service shall determine both the staffing required and the particular personnel assigned to perform the Transition Service, including but not limited to, clerical staff, technicians, professionals or others. The personnel assigned by a Provider under this Agreement to perform Transition Services for a Recipient shall not be deemed to be in the employ of the Recipient.

(b) Each Recipient shall not, without the Provider's prior written consent, solicit any employees of a Provider assigned by the Provider to the Recipient for the performance of such services while such employee is employed by Provider or within the six-month period after the date any employee ceases to provide Transition Services.

1.3 Representatives.

(a) Each of MMI and MMC shall designate a representative to act as its primary contact person for the provision of all Transition Services (each, a "Primary Coordinator"). The initial Primary Coordinators shall be designated in writing by notice to the others in accordance with paragraph (b) on or before the Distribution Date. The initial coordinators for each specific Transition Service shall be the individuals named in the Schedule relating to such Transition Service (each, a "Service Coordinator"). Each party may treat an act of another party's Primary Coordinator or Service Coordinator as authorized by such other party without inquiring behind such act or ascertaining whether such Primary Coordinator or Service Coordinator had actual authority so to act; provided, however, that neither the Primary Coordinator nor the Service Coordinator shall have authority to amend or modify the Agreement. All communications relating to the provision of the Transition Services shall be directed to the Primary Coordinators.

(b) Each of the relevant Provider and the relevant Recipient of a Transition Service shall notify the other in writing of any change in its Primary Coordinator and/or its Service Coordinator for each Transition Service. Any such notice shall (i) set forth the name of the Primary Coordinator or Service Coordinator to be replaced and the name of the replacement, and (ii) certify that the replacement Primary Coordinator is authorized to act for such party in all matters relating to this Agreement or that the replacement Service Coordinator is authorized to act for such party in all matters relating to the relevant Transition Service, as applicable, as provided in Section 1.3 (a) above.

1.4 Level of Transition Services.

(a) Each party, in its capacity as Provider, shall exercise the same degree of care when performing Transition Services as it exercises in performing the same or similar services for its own account, with priority equal to that provided to its own businesses. Nothing in this Agreement shall require any party in its capacity as Provider to favor the businesses of a Recipient over its own businesses. Provider shall perform its obligations hereunder in good faith and in accordance with principles of fair dealing.

(b) Transition Services provided by third parties shall be subject to the terms and conditions of this Agreement and any agreements between the Provider of such Transition Services and such third parties.

1.5 Corrective Efforts/Limitation of Liability. Notwithstanding anything to the contrary contained in this Agreement, if a Provider incorrectly (whether or not through negligence, inadvertence or poor judgment) performs or fails to perform any Transition Service, the Provider, at the Recipient's request, shall use commercially reasonable efforts to correct or re-perform the Transition Service at no additional cost to the Recipient, but shall have no other obligation to attempt to correct, correct or remediate the subject Transition Service. In the event Recipient does not request such correction of the Transition Service or Provider either does not correct the performance or is unable for any reason to attempt to correct the performance, any damages recoverable by Recipient shall be strictly limited to the amount paid by Recipient to Provider for the item of Service in respect of which a claim is made. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES, OR LOSS OF PROFITS OR OPPORTUNITIES, FINES, PENALTIES, OR ANY EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF ANY BREACH OF THIS AGREEMENT OR ANY OTHER THEORY OF LIABILITY, REGARDLESS OF THE CIRCUMSTANCES FROM WHICH SUCH DAMAGES OR LOSSES AROSE.

1.6 Force Majeure. Any failure or omission by a party in the performance of any obligation under this Agreement shall not be deemed a breach of this Agreement or create any liability, if the failure or omission arises from any cause or causes beyond the control of the party, including, but not limited to, the following, which for purposes of this Agreement shall be regarded as beyond the control of each of the parties hereto: acts of God, fire, storm, flood, earthquake, governmental regulation or direction, acts of the public enemy, war, rebellion, insurrection, riot, invasion, strike or lockout; provided, however, that the party shall resume the performance whenever such causes are removed. Notwithstanding the foregoing, if a party cannot perform under this Agreement for a period of 45 days due to such cause or causes, the affected party may terminate this Agreement with the defaulting party by providing written notice thereto.

1.7 Modification of Procedures. Each party, in its capacity as Provider, may make changes from time to time in its standards and procedures for performing any of the Transition Services for which it is responsible; provided, however, that, except as provided in Section 1.1(b) or required by Law, no party in its capacity as Provider shall implement any substantial changes affecting a Recipient of a Transition Service unless:

(a) Provider has furnished Recipient notice (which shall be the same notice such Provider shall provide its own businesses) thereof;

(b) Provider changes the procedures for its own businesses at the same time; and

(c) Provider gives Recipient a reasonable period of time for Recipient (i) to adapt its operations to accommodate the changes or (ii) to reject the proposed changes. In the event Recipient fails to accept or reject a proposed change on or before a date specified in the notice of change, Recipient shall be deemed to have accepted the change. Subject to Section 1.8, in the event Recipient rejects a proposed change but does not terminate the provision of the Transition Service, Recipient shall pay any charges resulting from Provider's need to maintain different versions of the same systems, procedures, technologies, or services or resulting from requirements of third party vendors or suppliers.

1.8 No Obligation to Continue to Use Services. Except as provided in the Schedules, no Recipient shall have any obligation to continue to use any of the Transition Services and a Recipient may delete any or all Transition Services from the Transition Services that a Provider is providing to the Recipient by giving the Provider written notice thereof in accordance with the notice provisions of this Agreement and the applicable Schedules.

1.9 Provider Access. Recipient shall provide the personnel of a Provider with access to its equipment, office space, telecommunications and computer equipment and systems, and any other areas and equipment to the extent reasonably required for personnel of a Provider to perform any Transition Service, subject to the Confidentiality provisions in Article III below.

ARTICLE II

COMPENSATION

2.1 Consideration. As consideration for the Transition Services, each party in its capacity as Recipient shall pay to each Provider the aggregate amount specified in the Schedules relating to the Transition Services provided by Provider to Recipient. Provider acknowledges that it has not "marked up" the charges for its services.

2.2 Invoices. The monthly fixed charges or fees for Transition Services set forth on the Schedules shall be paid on the first day of each month in which the Transition Services are to be performed. Any fees not payable as fixed amounts shall be invoiced monthly by the Provider to the Recipient no later than the 30th day of the calendar month next following the calendar month in which the Transition Services were performed. All invoices shall be sent by the Provider to the Recipient at the following address or to such other address as the Recipient shall have specified by notice in writing to the Provider of the Transition Services:

To MMI:

Marcus & Millichap, Inc.
23975 Park Sorrento, Suite 400
Calabasas, California 91302
Attention: Chief Financial Officer

To MMC:

Marcus & Millichap Company
777 California Avenue
Palo Alto, California 94304
Attention: Chief Financial Officer

2.3 Payment of Amounts Due. Payment of all amounts due for Transition Services shall be made by check or electronic funds transmission in U.S. Dollars, without any offset or deduction of any nature whatsoever, within 30 days of the invoice date or as specified in the applicable Schedules. All payments shall be made in accordance with the terms of the applicable Schedules, the instructions set forth on or accompanying the invoice or as otherwise agreed to in writing between the relevant Provider and the relevant Recipient. Books and Records of a Provider pertaining to the Transition Services provided and all reimbursed costs shall be available for inspection and audit by the Recipient during normal business hours for three months following the delivery of the invoice for the period for which the Transition Services were provided.

2.4 Provider's Rights on Failure to Pay. If any fixed fee or invoice is not paid when due, the Provider shall have the right, in its sole and absolute discretion, without any liability to the Recipient that has not paid such fixed fee or invoice or anyone claiming by or through the Recipient, to immediately cease providing any or all of the Transition Services provided by the Provider to the Recipient until such payment is received.

ARTICLE III

CONFIDENTIALITY

3.1 Obligation.

(a) All information with respect to any Recipient obtained by a party in its capacity as Provider shall be held and used by Provider only in accordance with Section 6.09 of the Separation Agreement.

(b) All information with respect to any Provider obtained by a party in its capacity as Recipient shall be held and used by the Recipient only in accordance with Section 6.09 of the Separation Agreement.

ARTICLE IV

TERM AND TERMINATION

4.1 Term. This Agreement shall become effective on the Contribution Date and shall remain in force with respect to a party until the expiration of the longest Time Period specified in any Schedule affecting such party as either Provider or Recipient, including any extension thereof, unless all of the Transition Services to be performed or received by such party are deleted or this Agreement is earlier terminated with respect to such party, in each case, in accordance with the terms of this Agreement.

4.2 Extension. The Time Period for which a Transition Service shall be provided may be extended by written agreement among the Recipient and the Provider of the Transition Service.

4.3 Termination. Recipient may terminate this Agreement or any of the Transition Services set out in the schedules attached hereto for any reason upon 60 days written notice to the Provider. Further, if any party (the "Defaulting Party") shall fail to perform or default in the performance of any of its obligations under this Agreement (other than a payment default subject to Section 2.4), the party entitled to the benefit of the performance (the "Non-Defaulting Party") may give written notice to the Defaulting Party specifying the nature of the failure or default and stating that the Non-Defaulting Party intends to terminate this Agreement with respect to the Defaulting Party if the failure or default is not cured within 15 days of the written notice. If any failure or default so specified is not cured within the 15-day period, the Non-Defaulting Party may elect immediately to terminate this Agreement with respect to the Defaulting Party; provided, however, that if the failure or default relates to a dispute contested in good faith by the Defaulting Party, the Non-Defaulting Party may not terminate this Agreement pending resolution of the dispute in accordance with Article V hereof. Such termination shall be effective upon giving a written notice of termination from the Non-Defaulting Party to the Defaulting Party and shall be without prejudice to any other remedy which may be available to the Non-Defaulting Party against the Defaulting Party.

4.4 Termination of Obligations. All obligations of each Provider to provide each Transition Service for which the Provider is responsible shall immediately cease upon the expiration of the Time Period (and any extension thereof in accordance with Section 4.2) for the Transition Service, and each Provider's obligations to provide all of the Transition Services for which the Provider is responsible shall immediately cease upon the termination of this Agreement with respect to the Provider and all relevant Recipients. Upon the cessation of a Provider's obligation to provide any Transition Service, the Recipient of the Transition Service shall immediately cease using, directly or indirectly, the Transition Service (including, without limitation, any and all software of Provider or third party software provided through Provider, telecommunications services or equipment, or computer systems or equipment).

4.5 Survival of Certain Obligations. Without prejudice to the survival of the other agreements of the parties, the following obligations shall survive the termination of this Agreement: (a) the obligations of each party under Articles III, IV and VI; and (b) each Provider's right to receive the compensation for the Transition Services provided in Section 2.1 accruing prior to the effective date of termination.

ARTICLE V

DISPUTE RESOLUTION

5.1 Contribution to Control. Any and all controversies, disputes or claims arising out of, relating to, in connection with or resulting from this Agreement (or any amendment thereto or any transaction contemplated hereby or thereby), including as to its existence, interpretation, performance, non-performance, validity, breach or termination, including any claim based on contract, tort, statute or constitution and any claim raising questions of law, whether arising before or after termination of this Agreement, shall be deemed an Agreement Dispute as defined in Section 9.13 of the Separation Agreement and shall be resolved exclusively by, in accordance with, and subject to the limitations set forth in Article IX of the Separation Agreement.

ARTICLE VI

INDEMNIFICATION

6.1 Recipients' Indemnity for Transition Services. Each party in its capacity as Recipient shall indemnify, defend and hold harmless each Provider, and the Provider's directors, officers, employees and agents, against any and all Liabilities incurred by any of them in connection with Transition Services provided under this Agreement except to the extent of Provider's gross negligence or intentional misconduct.

6.2 Providers' Indemnity for Transition Services. Each party in its capacity as Provider shall indemnify, defend and hold harmless each Recipient, and the Recipient's directors, officers, employees and agents, against all Liabilities incurred by any of them in connection with Transition Services provided under this Agreement except to the extent of Provider's gross negligence or intentional misconduct; provided, however, that any Liabilities claimed by Recipient and the Recipient's directors, officers, employees and agents shall be limited to the amount of the charges paid to Provider for such item of Transition Service in respect of which a claim is made; and provided, further, that Provider will defend, indemnify and hold harmless each Recipient of Transition Services from such Provider, and such Recipient's directors, officers, employees and agents, against all Liabilities incurred by any of them in connection with the Provider's operation, maintenance or use of a motor vehicle in the course of providing Transition Services to the Recipient.

ARTICLE VII

MISCELLANEOUS

7.1 Complete Agreement; Construction. This Agreement, including the Schedules hereto, and the Separation Agreement shall constitute the entire agreement among the parties with respect to the subject matter hereof and shall supersede all prior agreements, negotiations, commitments and writings with respect to such subject matter. In the event of any inconsistency between this Agreement and any Schedule hereto, the Schedule shall prevail. In the event of any inconsistency between this Agreement and the Separation Agreement, this Agreement shall prevail except for inconsistencies with respect to Sections 6.09 and 9.13 and Article IX of the Separation Agreement, which sections shall prevail over any inconsistent provision of this Agreement.

7.2 Other Agreements. This Agreement is not intended to address, and should not be interpreted to address, the matters expressly covered by the Separation Agreement.

7.3 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement.

7.4 Notices. All Notices required or permitted under this Agreement shall be in writing and shall be sufficiently given or made (a) if hand delivered or sent by telecopy (with delivery confirmed by voice or otherwise), (b) if sent by nationally recognized overnight courier or (c) if sent by registered or certified U.S. mail, postage prepaid, return receipt requested, and in each case addressed as follows:

If to MMI:

Marcus & Millichap, Inc.
23975 Park Sorrento, Suite 400
Calabasas, California 91302
Attention: Chief Financial Officer

If to MMC:

Marcus & Millichap Company
777 California Avenue
Palo Alto, California 94304
Attention: Chief Financial Officer

or at such other address as shall be furnished by any of the parties in a Notice. Any Notice shall be deemed to have been duly given or made when the Notice is received.

7.5 Waivers. The failure of any party to require strict performance by any other party of any provision in or rights and remedies with respect to this Agreement will not waive or diminish that party's right to demand strict performance thereafter of that or any other provision hereof or right or remedy.

7.6 Amendments. After the execution of this Agreement by all parties, and solely to the extent that a change is desired by and restricted to any two parties without affecting the rights of the third party hereto, such two parties may separately amend in writing any provision of this Agreement which governs the rights exchanged between them without notifying the third party hereto. Except as expressly provided herein, this Agreement may be amended or supplemented or its provisions waived only by an agreement in writing signed by each of the parties.

7.7 Assignment.

(a) No party to this Agreement shall (i) consolidate with or merge into any Person or permit any Person to consolidate with or merge into such party (other than a merger or consolidation in which the party is the surviving or continuing corporation), or (ii) sell, assign, transfer, lease or otherwise dispose of, in one transaction or a series of related transactions, all or substantially all of its Assets, unless the resulting, surviving or transferee Person expressly assumes, by instrument in form and substance reasonably satisfactory to the other parties, all of the obligations of the party under this Agreement.

(b) Except as expressly provided in paragraph (a), neither this Agreement nor any of the rights, interests or obligations hereunder shall be assignable, directly or indirectly, by any party without the prior written consent of the other parties, and any attempt to so assign without such consent shall be void.

7.8 Successors and Assigns. Subject to Section 7.7, this Agreement shall be binding upon, inure to the benefit of and be enforceable by the successors and permitted assigns of the parties.

7.9 Third Party Beneficiaries. This Agreement is solely for the benefit of the parties and the members of their respective Groups and Affiliates and their respective successors and assigns and should not be deemed to confer upon third parties any remedy, claim, liability, reimbursement, cause of action or other right in excess of those existing without reference to this Agreement.

7.10 Schedules. The Schedules shall be construed with and as an integral part of this Agreement to the same extent as if they had been set forth verbatim herein.

7.11 Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the Law of the State of Delaware without regard to the principles of conflicts of Laws thereunder. Notwithstanding the foregoing, the Federal Arbitration Act, 9 U.S.C. §§1-15, shall govern the arbitrability of disputes.

7.12 Severability. If any provision of this Agreement or the application thereof to any Person or circumstance is determined to be invalid, void or unenforceable in any respect, the remaining provisions hereof, the application of such provision to Persons or circumstances other than those as to which it has been held invalid, void or unenforceable, shall remain in full force and effect and in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to any party.

7.13 Subsidiaries. Each of the parties shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth herein to be performed by any Subsidiary of such party or by any entity that is contemplated to be a Subsidiary of such party on and after the Distribution Date.

7.14 Title and Headings. Titles and headings to sections herein are inserted for the convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

7.15 Laws and Government Regulations. Each party in its capacity as Recipient shall be responsible for (a) compliance with all Laws affecting its businesses and (b) any use it may make of the Transition Services to assist it in complying with such Laws. While a party in its capacity as Provider shall not have any responsibility for the compliance by any Recipient with such Laws, Provider shall use reasonable commercial efforts to cause the Transition Services to be designed in such manner that the Transition Services shall be able to assist the Recipient in complying with applicable legal and regulatory responsibilities.

7.16 Relationship of Parties. Nothing in this Agreement shall be construed to create a partnership, agency or other relationship between the parties or to make any party liable for any debts or obligations incurred by another party.

7.17 Definitions. Capitalized terms used in this Agreement and not otherwise defined herein have the meanings ascribed to such terms in the Separation Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Transition Services Agreement to be executed as of the day and year first above written.

MARCUS & MILLICHAP, INC.

By: /s/ Martin E. Louie
Name: Martin E. Louie
Title: Chief Financial Officer

MARCUS & MILLICHAP COMPANY

By: /s/ Alexander Yarmolinsky
Name: Alexander Yarmolinsky
Title: Chief Financial Officer

By: /s/ Robert T. Alden
Name: Robert T. Alden
Title: Vice President, Finance

M&M CORPORATE SERVICES, INC.

By: /s/ Alexander Yarmolinsky
Name: Alexander Yarmolinsky
Title: Chief Financial Officer

By: /s/ Scott Posternack
Name: Scott Posternack
Title: Vice President, Accounting

Schedule 1.01

Benefits Administration

Provider: M&M Corporate Services ("MMCS")

Recipient(s): MMI and all subsidiaries

Description of Service: The medical, dental, disability, life insurance and worker's compensation plans will remain linked with the Marcus & Millichap Company and affiliate plan until renewal of the plans takes place in April, 2014. At that point separate plans will be issued for MMI only. During this transition period, MMI will be allocated premium costs consistent with historical allocations which are based on the actual number of participants in each plan associated with MMI and its subsidiary entities for the medical plan and based on total payroll attributed to MMI and its subsidiaries for the workers compensation plan. Additionally, MMCS will provide nominal benefits administration coordination services until the renewals take place.

MMC and MMI will continue to receive ADP payroll administration services under the same ADP contract for up to six months. During this transition period, MMI will be allocated the portion of ADP's fees consistent with historical allocations and MMI payroll. Additionally, the 401K plan administration and certain flexible spending account services provided by outside vendors will be shared for a transitional period.

Payment: None, other than a reimbursement for allocated premium or service costs.

Time Period: Until April, 2014

Notice Period for Deletion of Transition Services: 60 days

Other Material Terms: N/A

Service Coordinator for Provider: Marianne Empedocles

Service Coordinator for each Recipient: Martin Louie

Schedule 1.02

Legal

Provider: Marcus & Millichap Company

Recipient(s): MMI

Description of Service: In-house legal services relating to corporate matters, including without limitation corporate governance, SEC filings, the omnibus equity plan, and matters involving the company's board of directors, shareholders, lenders and insurers.

Payment: A monthly allocation of base salary based on the amount of time incurred for the described services. The estimated monthly amount ranges between $9,000 to $15,000.

Time Period: From between 6 to 18 months.

Notice Period for Deletion of Transition Services: 60 days

Other Material Terms: Services to be covered by MMI insurance where appropriate

Service Coordinator for Provider: Robert Kennis

Service Coordinator for each Recipient: John Kerin

Schedule 1.03

Management of SAP Accounting System

Provider: MMCS

Recipient(s): MMI

Description of Service: Management of the SAP accounting system.

Payment: A monthly allocation of compensation based on the amount of time incurred by one person for the described services. The estimated monthly amount ranges between $9,000 to $13,000.

Time Period: Up to 12 months

Notice Period for Deletion of Transition Services: 90 days

Other Terms:

Service Coordinator for Provider: Alex Yarmolinsky

Service Coordinator for each Recipient: Martin Louie

Exhibit 31.1

Certification of Chief Executive Officer of Marcus & Millichap, Inc. pursuant to Rule 13a-14(a) under the Exchange Act, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, John J. Kerin, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Marcus & Millichap, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

    a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

    b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

    c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

    d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

    a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

    b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 22, 2013

/s/ JOHN J. KERIN
John J. Kerin
President and Chief Executive Officer

Exhibit 31.2

Certification of Chief Financial Officer of Marcus & Millichap, Inc. pursuant to Rule 13a-14(a) under the Exchange Act, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Martin E. Louie, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Marcus & Millichap, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

    a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

    b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

    c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

    d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

    a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

    b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 22, 2013

/s/ Martin E. Louie

Martin E. Louie
Chief Financial Officer

Exhibit 32.1

Certifications of Chief Executive Officer and Chief Financial Officer of Marcus & Millichap, Inc. Pursuant to Rule 13a-14(b) under the Exchange Act and 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

In connection with the Quarterly Report of Marcus & Millichap, Inc. on Form 10-Q for the period ended September 30, 2013 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), we, John J. Kerin, President and Chief Executive Officer of the Company, and Martin E. Louie, Chief Financial Officer of the Company, certify, to the best of our knowledge, pursuant to Rule 13a-14(b) under the Securities Exchange Act of 1934 and 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 22, 2013

/s/ John J. Kerin
John J. Kerin
President and Chief Executive Officer

Date: November 22, 2013

/s/ Martin E. Louie
Martin E. Louie
Chief Financial Officer