

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of earliest event reported): January 7, 2009 (December 31, 2008)

ACI WORLDWIDE, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction
of incorporation)

0-25346

(Commission File Number)

47-0772104

(IRS Employer
Identification No.)

**120 Broadway, Suite 3350
New York, New York 10271**

(Address of principal executive offices) (Zip Code)

Registrant's Telephone Number, Including Area Code: **(646) 348-6700**

(Former Name or Former Address, if Changed Since Last Report)

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

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

Item 5.02. Entry Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangement of Certain Officers.

(e) Amended and Restated Employment Agreement

In December 2008, the Compensation Committee of the Board of Directors of ACI Worldwide, Inc. (the "Company") authorized and directed the Company to amend and restate the Employment Agreement dated as of March 5, 2005, and amended by the First Amendment thereto dated as of September 5, 2007, between the Company and Philip G. Heasley (the "Employment Agreement") to make necessary and appropriate changes to comply with the requirements of Section 409A of the Internal Revenue Code and to make certain other modifications. On January 7, 2009, the Company and Mr. Heasley entered into an Amended and Restated Employment Agreement (the "Restated Employment Agreement") which makes the following substantive changes to the original Employment Agreement in addition to the changes made to comply with the requirements of 409A of the Internal Revenue Code: (1) increased Mr. Heasley's base salary to \$575,000 per year; and (2) increased the target annual bonus amount Mr. Heasley will be eligible for under the Company's Management Incentive Compensation Plan to \$575,000. The Restated Employment Agreement also makes various conforming changes to reflect the fact that certain provisions contained in the initial Employment Agreement are no longer applicable, or have been completed, since Mr. Heasley has been employed by the Company as Chief Executive Officer and President since March 5, 2005.

A copy of the Restated Employment Agreement is attached hereto as Exhibit 10.1 and incorporated herein by this reference.

The Compensation Committee of the Board of Directors of the Company approved a new form of Change In Control Employment Agreement, effective December 31, 2008 (the "Change In Control Agreement"), for certain executive officers (each an "Executive"). Upon execution of the new form of Change In Control Agreement by the Executive party thereto, the new form Change In Control Agreement will replace and supersede the change in control employment agreement in place with the respective Executive and previously filed with the Securities and Exchange Commission on the Company's Current Report on Form 8-K filed September 7, 2007. A copy of the new form of Change In Control Agreement is attached hereto as Exhibit 10.2 and incorporated herein by this reference.

The Change In Control Agreement provides that the Company will employ the Executive for a two-year period following a change in control (as defined in the Change In Control Agreement) (the "Employment Period"). During the Employment Period, the Company will (i) pay the Executive a base salary equal to the highest annual rate of base salary paid or payable to the Executive for the 12-month period prior to the change in control, (ii) award the Executive for each fiscal period during the Employment Period total annual and quarterly bonus opportunities equal to at least the Executive's target annual and quarterly bonus opportunities for the year in which the change in control occurs, and (iii) allow the Executive opportunities to participate in the Company's incentive, savings and retirement plans to an extent no less favorable than opportunities provided for by the Company in the 120-day period prior to the effective date of any change in control.

The Change In Control Agreement also sets forth the obligations of the Company in the event the Executive's employment terminates during the Employment Period. The following is a summary of such obligations of the Company.

Termination of Employment Other Than for Cause or by Executive for Good Reason. The Change In Control Agreement provides that if the Company terminates the Executive's employment other than for cause or the Executive's death or disability, or the Executive terminates his employment for good reason, the Executive will be entitled to receive from the Company certain payments and benefits. These payments and benefits include (1) the lump sum of (a) the Executive's unpaid current year annual base salary through the date of termination, a portion of current year bonus based on the current year target annual bonus, pro rated through the date of termination and any accrued and unpaid vacation pay (together, the "Accrued Obligations"), plus (b) two or, in the case of Philip G. Heasley, the Company's Chief Executive Officer, only, three times, the sum of the annual base salary and target annual bonus; (2) continued participation at the Company's cost in welfare benefits plans in which the Executive would have been participating, for two or, in the case of Mr. Heasley only, three years, from the date of termination or until the Executive receives equivalent benefits from a subsequent employer, in which case, welfare benefits plans provided pursuant to the Change In Control Agreement shall be secondary to those provided under such other plans during the applicable period of eligibility; (3) outplacement services at the Company's sole expense not to exceed \$50,000; and (4) any unpaid amounts that are vested benefits or that the Executive is otherwise entitled to receive under any plan, policy, practice or program of or any other contract or agreement with the Company or the affiliated companies at or subsequent to the date of termination (the "Other Benefits").

Death. The Change In Control Agreement provides that if the Executive's employment is terminated by reason of the Executive's death the Company shall provide the Executive's estate or beneficiaries with the Accrued Obligations and the timely payment or delivery of the Other Benefits, and shall have no other severance obligations under the Change In Control Agreement.

Disability. The Change In Control Agreement provides that if the Executive's employment is terminated by reason of the Executive's disability the Company shall provide the Executive with the Accrued Obligations and the timely payment or delivery of the Other Benefits, and shall have no other severance obligations under the Change In Control Agreements.

Termination of Employment for Cause or by Executive other than for Good Reason. The Change In Control Agreement provides that if the Executive's employment is terminated for cause the Company shall provide the Executive with the Executive's annual base salary through the date of termination, and the timely payment or delivery of the Other Benefits, and shall have no other severance obligations under the Change In Control Agreement. If the Executive voluntarily terminates employment, excluding a termination for good reason, the Company shall provide to the Executive the Accrued Obligations and the timely payment or delivery of the Other Benefits, and shall have no other severance obligations under the Change In Control Agreements. In addition, the Change In Control Agreements provide that in the event any payment would be subject to excise tax, then the Executive shall be entitled to receive an additional payment (the "Gross-Up Payment") in an amount such that, after payment by the Executive of all taxes (and any interest or penalties imposed with respect to such taxes), including, without limitation, any income taxes (and any interest and penalties imposed with respect thereto) and excise tax imposed upon the Gross-Up Payment, but excluding any income taxes and penalties imposed pursuant to Section 409A of the Internal Revenue Code of 1986, as amended the Executive retains an amount of the Gross-Up Payment equal to the excise tax imposed upon the payments.

Item 9.01. Financial Statements and Exhibits.

- 10.1 Amended and Restated Employment Agreement between ACI Worldwide, Inc. and Philip G. Heasley dated January 7, 2009
- 10.2 Form of Change In Control Employment Agreement between ACI Worldwide, Inc. and various executives

SIGNATURES

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

ACI WORLDWIDE, INC.

/s/ Dennis P. Byrnes

Date: January 7, 2009

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EXHIBIT INDEX

<u>Exhibit No.</u>	<u>Exhibit Description</u>
10.1	Amended and Restated Employment Agreement between ACI Worldwide, Inc. and Philip G. Heasley dated January 7, 2009
10.2	Form of Change In Control Employment Agreement between ACI Worldwide, Inc. and various executives

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AMENDED AND RESTATED EMPLOYMENT AGREEMENT

This AMENDED AND RESTATED EMPLOYMENT AGREEMENT (“Agreement”) is entered into as of January 7, 2009 (the “Effective Date”) between ACI Worldwide, Inc., a Delaware corporation formerly known as Transaction Systems Architects, Inc. (the “Company”), and Philip G. Heasley (“Executive”), and supersedes in its entirety that certain Employment Agreement dated as of March 5, 2005, and amended by the First Amendment thereto dated as of September 5, 2007, pertaining to the terms of the employment of Executive by the Company.

RECITALS:

WHEREAS, Executive has served as the President and Chief Executive Officer of the Company since March 5, 2005 (the “Initial Employment Date”), and Executive desires to continue to serve as the President and Chief Executive Officer of the Company;

WHEREAS, the Company shall employ Executive on the terms and conditions set forth in this Agreement, and Executive shall be retained and employed by the Company to perform such services under the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Certain Definitions. Certain words or phrases with initial capital letters not otherwise defined herein shall have the meanings set forth in Section 8 hereof.
2. Employment. The Company shall employ Executive, and Executive accepts employment with the Company, upon the terms and conditions set forth in this Agreement for the period beginning on the Effective Date and ending as provided in Section 5 hereof (the “Employment Period”).
3. Position and Duties.
 - (a) During the Employment Period, Executive shall serve as the President and Chief Executive Officer of the Company and shall have the normal duties, responsibilities and authority of an executive serving in such position, subject to the power of the Board of Directors of the Company (the “Board”) to provide oversight and direction with respect to such duties, responsibilities and authority, either generally or in specific instances and consistent with such position. So long as Executive is the President and Chief Executive Officer of the Company, the Board will nominate Executive to serve as a member of the Board.
 - (b) Executive shall report to the Board.

 - (c) During the Employment Period, Executive shall devote Executive’s best efforts and Executive’s full business time and attention (except for permitted vacation periods and reasonable periods of illness or other incapacity) to the business and affairs of the Company, its subsidiaries and affiliates. Executive shall perform Executive’s duties and responsibilities to the best of Executive’s abilities in a diligent, trustworthy, business-like and efficient manner. During the Employment Period, Executive may not serve as a director or a principal of another company without the Board’s prior consent.
 - (d) Executive shall perform Executive’s duties and responsibilities principally in the metropolitan area of the Company’s headquarters.
 - (e) Executive has acquired through purchase on the NASDAQ National Market System at least 100,000 shares (the “Threshold Ownership”) of the Company’s common stock. Executive shall at all times during the Initial Employment Period (as defined in Section 5 below) continue to meet the Threshold Ownership.
4. Compensation and Benefits.
 - (a) Salary. The Company agrees to pay Executive a salary during the Employment Period in installments based on the Company’s payroll practices as may be in effect from time to time. Executive’s salary during the Initial Employment Period (as defined in Section 5) shall be at the rate of \$575,000 per year (“Base Salary”). For any renewal periods as set forth in Section 5(b) below, the amount of the Executive’s Base Salary will be mutually agreed to by the Board and Executive. Notwithstanding the foregoing, the Board may decrease Executive’s Base Salary only if, as a result of a reasonable business judgement of the Board, there is an across-the-board salary reduction for all executive level management employees of the Company. If there is any modification to the Base Salary as defined herein, “Base Salary” in this Agreement will refer to such modified Base Salary.
 - (b) Bonus. During the Initial Employment Period, Executive will be eligible for a bonus under the Company’s Management Incentive Compensation Plan (or any successor plan), with a targeted annual bonus of \$575,000 and with such performance criteria as are approved by the Board for each fiscal year. During any renewal period as set forth in Section 5(b) below, Executive’s bonus will be mutually agreed to by the Board and Executive.
 - (c) Stock Options. During Executive’s employment with the Company, Executive has received certain stock option grants. The terms and conditions for the grants are set forth in those certain stock option agreements between the Company and Executive as the same may be amended from time to time by the parties.

 - (d) Expense Reimbursement. The Company shall reimburse Executive for all reasonable expenses incurred by Executive during the Employment Period in the course of performing Executive’s duties under this Agreement that are consistent with the Company’s policies in

effect from time to time with respect to travel, entertainment and other business expenses, subject to the Company's requirements applicable generally with respect to reporting and documentation of such expenses. The Company shall reimburse Executive for the cost incurred in maintaining a parking space in New York, New York, the amount of which reimbursement shall be approved by the Board. The Company shall also reimburse Executive an amount up to \$18,000 for the transportation of Executive's household goods in connection with Executive's relocation to the metropolitan area of the Company's headquarters.

- (e) Standard Executive Benefits Package. Executive shall be entitled during the Employment Period to participate, on the same basis as other executives of the Company, in the Company's Standard Executive Benefits Package. The Company's "Standard Executive Benefits Package" means those benefits (including insurance and other benefits, but excluding, except as hereinafter provided in Section 6, any severance pay program or policy of the Company) for which substantially all of the executives of the Company are from time to time generally eligible, as determined from time to time by the Board. Notwithstanding the foregoing, Executive shall be entitled to four weeks of paid vacation per calendar year.
- (f) Additional Compensation/Benefits. Any compensation or benefits to be provided to Executive during the Employment Period other than as set forth in this Agreement, including, without limitation, any future grant of stock options or other equity awards, shall be determined by the Board in its sole discretion.

5. Employment Period.

- (a) Except as hereinafter provided, the Employment Period shall commence on the Effective Date and shall continue until, and shall end upon, the sixth anniversary of the Initial Employment Date (the "Initial Employment Period").
- (b) On the sixth anniversary of the Initial Employment Date and on each anniversary thereafter, unless the Employment Period shall have ended pursuant to Section 5(c) below or the Company shall have given Executive 30 days written notice that the extension provision in this sentence shall not apply, the Employment Period shall be extended for an additional year.
- (c) Notwithstanding (a) or (b) above, the Employment Period shall end early upon the first to occur of any of the following events:

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- (i) Executive's death;
 - (ii) the Company's termination of Executive's employment on account of Disability;
 - (i) the Company's termination of Executive's employment for Cause (a "Termination for Cause");
 - (iv) the Company's termination of Executive's employment without Cause (a "Termination without Cause");
 - (v) Executive's termination of Executive's employment for Good Reason (a "Termination for Good Reason"); or
 - (vi) Executive's termination of Executive's employment for any reason other than Good Reason (a "Voluntary Termination").
- (d) Notwithstanding anything herein to the contrary, this Agreement and the Employment Period hereunder shall terminate immediately upon the occurrence of the "Effective Date" defined in that certain Change In Control Employment Agreement between the Company and Executive dated September 5, 2008, or any change in control employment agreement that supersedes and replaces that agreement (the "Change In Control Employment Agreement"). Thereafter, Executive's employment with the Company shall be governed by the terms and conditions of the Change In Control Employment Agreement.

6. Post-Employment Period Payments.

- (a) At the end of the Employment Period for any reason, Executive shall cease to have any rights to salary, bonus, expense reimbursements or other benefits and Executive shall be entitled to (i) any Base Salary which has accrued but is unpaid, any reimbursable expenses which have been incurred but are unpaid, and any unexpired vacation days which have accrued under the Company's vacation policy but are unused, as of the end of the Employment Period, (ii) any plan benefits which by their terms extend beyond termination of Executive's employment (but only to the extent provided in any such benefit plan in which Executive has participated as an employee of the Company and excluding, except as hereinafter provided in Section 6, any severance pay program or policy of the Company) and (iii) any benefits to which Executive is entitled under Part 6 of Subtitle B of Title I of the Employee Retirement Income Security Act of 1974, as amended ("COBRA"). In addition, Executive shall be entitled to the additional benefits and amounts described in the succeeding subsections of this Section 6, in the circumstances described in such subsections.

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- (b) If the Employment Period ends pursuant to Section 5 hereof on account of Executive's death, Disability or Voluntary Termination, or on account of a Termination for Cause, the Company shall make no further payments to Executive except as contemplated in subsection (a) above.
- (c) If the Employment Period ends early pursuant to Section 5 hereof on account of a Termination without Cause or a Termination for Good Reason, Executive shall be entitled to the following:
 - (i) a lump sum payment equal to Executive's bonus for the quarter in which the Employment Period ends; provided, however, that if such Termination without Cause or Termination for Good Reason occurs at any time during fiscal year 2005, this Section 6(c) shall not apply and Executive shall not be entitled to any portion of the bonus for fiscal year 2005;

- (ii) a lump sum payment equal to two times the sum of (A) Executive's Base Salary at the time of such termination, plus (B) the Bonus Amount in effect at the time of such termination; and
- (iii) Executive shall be entitled to continue to participate, on the same basis as active employees participate in such plans, in the Company's medical and dental plans until the earlier of (A) Executive's eligibility for any such coverage under another employer's or any other medical or dental insurance plans or (B) two years from the date of termination of Executive's employment (the "Benefit Continuation Period") but only to the extent that Executive makes a payment to the Company in an amount equal to the monthly premium payments (both the employee and employer portion) required to maintain such coverage on the first day of each calendar month commencing with the first calendar month following the date of termination of Executive's employment and the Company shall reimburse Executive on an after-tax basis for the amount of such premiums, if any, in excess of any employee contributions necessary to maintain such coverage for the Benefit Continuation Period and such reimbursement shall comply with the Reimbursement Rules set forth below. Executive agrees that the period of coverage under such plans (or the period of reimbursement if participation is barred) shall count against the plans' obligation to provide continuation coverage pursuant to COBRA.

Notwithstanding any other provision to the contrary in this Section 6(c), the medical and dental plan benefits provided pursuant to Section 6(c)(iii) that are not non-taxable medical benefits within the meaning of Treasury Regulation Section 1.409A-1(a)(5) shall be treated as follows (the "Reimbursement Rules"): (i) the amount of such benefits provided during one taxable year shall not affect the amount of such benefits provided in any other taxable year, except that to the

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extent such benefits consist of the reimbursement of expenses referred to in Section 105(b) of the Code, a limitation may be imposed on the amount of such reimbursements over some or all of the Benefit Continuation Period, as described in Treasury Regulation Section 1.409A-3(i)(1)(iv)(B), (ii) to the extent that any such benefits consist of reimbursement of eligible expenses, such reimbursement must be made on or before the last day of the calendar year following the calendar year in which the expense was incurred, and (iii) no such benefit may be liquidated or exchanged for another benefit.

- (d) Subject to the delay of certain payments pursuant to Section 20 of this Agreement, the Company shall make all payments required to be made pursuant to this Section 6 within seventy-five (75) days of the end of the Employment Period; provided, however, no payments shall be made under Section 6(c), and all such payments and benefits shall be forfeited, if Executive fails to sign and return a Release Agreement to the Company within seventy-five (75) days after the end of the Employment Period or revokes such Release Agreement within the time period provided therein.
- (e) Except as provided in Section 6(c)(iii) above, Executive shall not be required to mitigate the amount of any payment or benefit provided for in this Agreement by seeking other employment or otherwise.
- (f) Notwithstanding any other provision of this Agreement, no payment will be made pursuant to this Agreement if Executive is entitled to, and receives, payments or other benefits pursuant to the Change in Control Agreement.

7. Competitive Activity; Confidentiality; Nonsolicitation.

- (a) Acknowledgements and Agreements. Executive hereby acknowledges and agrees that in the performance of Executive's duties to the Company during the Employment Period, Executive will be brought into frequent contact, either in person, by telephone or through the mails, with existing and potential customers of the Company. Executive also agrees that trade secrets and confidential information of the Company, more fully described in Section 7(j) of this Agreement, gained by Executive during Executive's association with the Company, have been developed by the Company through substantial expenditures of time, effort and money and constitute valuable and unique property of the Company. Executive further understands and agrees that the foregoing makes it necessary for the protection of the business of the Company that Executive not compete with the Company during the Employment Period and not compete with the Company for a reasonable period thereafter, as further provided in the following subsections.
- (b) Covenants During the Employment Period. During the Employment Period, Executive will not compete with the Company anywhere within the United States.

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In accordance with this restriction, but without limiting its terms, during the Employment Period, Executive will not:

- (i) enter into or engage in any business which competes with the business of the Company;
 - (ii) solicit customers, business, patronage or orders for, or sell, any products and services in competition with, or for any business that competes with, the business of the Company;
 - (iii) divert, entice or otherwise take away any customers, business, patronage or orders of the Company or attempt to do so; or
 - (iv) promote or assist, financially or otherwise, any person, firm, association, partnership, corporation or other entity engaged in any business which competes with the business of the Company.
- (c) Covenants Following Termination. For a period of one year following the termination of Executive's employment for any reason, Executive will not:

- (i) enter into or engage in any business which competes with the Company's business within the Restricted Territory (as defined in Section 7(g));
 - (ii) solicit customers, business, patronage or orders for, or sell, any products and services in competition with, or for any business, wherever located, that competes with, the Company's business within the Restricted Territory;
 - (iii) divert, entice or otherwise take away any customers, business, patronage or orders of the Company within the Restricted Territory, or attempt to do so; or
 - (iv) promote or assist, financially or otherwise, any person, firm, association, partnership, corporation or other entity engaged in any business which competes with the Company's business within the Restricted Territory.
- (d) Indirect Competition. For the purposes of Sections 7(b) and 7(c), but without limitation thereof, Executive will be in violation thereof if Executive engages in any or all of the activities set forth therein directly as an individual on Executive's own account, or indirectly as a partner, joint venturer, employee, agent, salesperson, consultant, officer and/or director of any firm, association, partnership, corporation or other entity, or as a stockholder of any corporation or the owner of the interests in any other entity, in which Executive or Executive's spouse, child or parent owns, directly or indirectly, individually or in the

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aggregate, more than five percent (5%) of the outstanding stock or other ownership interests.

- (e) The Company. For purposes of this Section 7, the Company shall include any and all direct and indirect subsidiary, parent, affiliated, or related companies of the Company.
- (f) The Company's Business. For the purposes of Sections 7(b), 7(c), 7(k) and 7(1), the Company's business is defined to be the development and sale of software products that facilitate electronic payments, as further described in any and all manufacturing, marketing and sales manuals and materials of the Company as the same may be altered, amended, supplemented or otherwise changed from time to time, or of any other products or services substantially similar to or readily suitable for any such described products and services.
- (g) Restricted Territory. For the purposes of Section 7(c), the Restricted Territory shall be defined as and limited to:
 - (i) the geographic area(s) within a 100 mile radius of any and all Company location(s) in, to, or for which Executive worked, to which Executive was assigned or had any responsibility (either direct or supervisory) at the time of termination of Executive's employment and at any time during the one (1) year period prior to such termination; and
 - (ii) all of the specific customer accounts, whether within or outside of the geographic area described in (i) above, with which Executive had any contact or for which Executive had any responsibility (either direct or supervisory) at the time of termination of Executive's employment and at any time during the one (1) year period prior to such termination.
- (h) Extension. If it shall be judicially determined that Executive has violated any of Executive's obligations under Section 7(c), then the period applicable to each obligation that Executive shall have been determined to have violated shall automatically be extended by a period of time equal in length to the period during which such violation(s) occurred.
- (i) Non-Solicitation. For a period of two years following the termination of Executive's employment for any reason, Executive will not directly or indirectly solicit or induce or attempt to solicit or induce any employee(s), sales representative(s), agent(s) or consultant(s) of the Company and/or of its parent, or its other subsidiary, affiliated or related companies to terminate their employment, representation or other association with the Company and/or its parent or its other subsidiary, affiliated or related companies.

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- (j) Further Covenants.
 - (i) Executive will keep in strict confidence, and will not, directly or indirectly, at any time during or after Executive's employment with the Company, disclose, furnish, disseminate, make available or, except in the course of performing Executive's duties of employment, use any trade secrets or confidential business and technical information of the Company or its customers or vendors, including without limitation as to when or how Executive may have acquired such information. Such confidential information shall include, without limitation, the Company's unique selling, manufacturing and servicing methods and business techniques, training, service and business manuals, promotional materials, training courses and other training and instructional materials, vendor and product information, customer and prospective customer lists, other customer and prospective customer information and other business information. Executive specifically acknowledges that all such confidential information, whether reduced to writing, maintained on any form of electronic media, or maintained in Executive's mind or memory and whether compiled by the Company, and/or Executive, derives independent economic value from not being readily known to or ascertainable by proper means by others who can obtain economic value from its disclosure or use, that reasonable efforts have been made by the Company to maintain the secrecy of such information, that such information is the sole property of the Company and that any retention and use of such information by Executive during Executive's employment with the Company (except in the course of performing Executive's duties and obligations to the Company) or after the termination of Executive's employment shall constitute a misappropriation of the Company's trade secrets.
 - (ii) Executive agrees that upon termination of Executive's employment with the Company, for any reason, Executive shall return to the Company, in good condition, all property of the Company, including without limitation, the originals and all copies of any materials which contain, reflect, summarize, describe, analyze or refer or relate to any items of information listed in Section 7(G)

(i) of this Agreement. In the event that such items are not so returned, the Company will have the right to charge Executive for all reasonable damages, costs, attorneys' fees and other expenses incurred in searching for, taking, removing and/or recovering such property.

(k) Discoveries and Inventions: Work Made for Hire.

- (i) Executive hereby assigns and agrees to assign to the Company, its successors, assigns or nominees, all of Executive's rights to any discoveries, inventions and improvements, whether patentable or not, made, conceived or suggested, either solely or jointly with others, by

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Executive while in the Company's employ, whether in the course of Executive's employment with the use of the Company's time, material or facilities or that is in any way within or related to the existing or contemplated scope of the Company's business. Any discovery, invention or improvement relating to any subject matter with which the Company was concerned during Executive's employment and made, conceived or suggested by Executive, either solely or jointly with others, within one (1) year following termination of Executive's employment under this Agreement or any successor agreements shall be irrebuttably presumed to have been so made, conceived or suggested in the course of such employment with the use of the Company's time, materials or facilities. Upon request by the Company with respect to any such discoveries, inventions or improvements, Executive will execute and deliver to the Company, at any time during or after Executive's employment, all appropriate documents for use in applying for, obtaining and maintaining such domestic and foreign patents as the Company may desire, and all proper assignments therefor, when so requested, at the expense of the Company, but without further or additional consideration.

- (ii) Executive acknowledges that, to the extent permitted by law, all work papers, reports, documentation, drawings, photographs, negatives, tapes and masters therefor, prototypes and other materials (hereinafter, "items"), including without limitation, any and all such items generated and maintained on any form of electronic media, generated by Executive during Executive's employment with the Company shall be considered a "work made for hire" and that ownership of any and all copyrights in any and all such items shall belong to the Company. The item will recognize the Company as the copyright owner, will contain all proper copyright notices, e.g., "(creation date) [Company Name], All Rights Reserved," and will be in condition to be registered or otherwise placed in compliance with registration or other statutory requirements throughout the world.

- (l) Communication of Contents of Agreement. During Executive's employment and for one (1) year thereafter, Executive will communicate the contents of this Agreement to any person, firm, association, partnership, corporation or other entity which Executive intends to be employed by, associated with, or represent.

- (m) Relief. Executive acknowledges and agrees that the remedy at law available to the Company for breach of any of Executive's obligations under this Agreement would be inadequate. Executive therefore agrees that, in addition to any other rights or remedies that the Company may have at law or in equity, temporary and permanent injunctive relief may be granted in any proceeding which may be brought to enforce any provision contained in Sections 7(b), 7(c), 7(d), 7(h), 7(i), 7(j), 7(k) and 7(1) of this Agreement, without the necessity of proof of actual damage.

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- (n) Reasonableness. Executive acknowledges that Executive's obligations under this Section 7 are reasonable in the context of the nature of the Company's business and the competitive injuries likely to be sustained by the Company if Executive was to violate such obligations. Executive further acknowledges that this Agreement is made in consideration of, and is adequately supported by the agreement of the Company to perform its obligations under this Agreement and by other consideration, which Executive acknowledges constitutes good, valuable and sufficient consideration.

8. Definitions.

- (a) "Base Period" means the two most recent fiscal years of the Company ending prior to the date of Executive's termination of employment; provided, however that if Executive was not an employee of the Company (or a Predecessor Entity or a Related Entity, as such terms are defined in Section 8 hereof) at any time during one of such two fiscal years, the Base Period is the one fiscal year of such two fiscal year period during which Executive performed personal services for the Company or a Predecessor Entity or a Related Entity.
- (b) "Bonus Amount" means the quotient of (i) the total of the annual bonus amounts described in Section 4(b) of this Agreement received by Executive during the fiscal year or years comprising the Base Period, divided by (ii) the number of the Company's fiscal years in the Base Period.
- (c) "Cause" means the occurrence of any of the following events prior to the termination of the Employment Period:
- (i) Executive's conviction of a felony involving moral turpitude;
- (ii) Executive's serious, willful gross misconduct or Executive's repeated failure or refusal to perform or observe Executive's material duties, responsibilities and obligations as an employee or officer of the Company for reasons other than Disability, if such misconduct, failure or refusal continues ten days following written notice thereof by the Company to Executive identifying the same and specifying that Executive's employment may be terminated if the same continues;
- (iii) Executive's breach of any provision of Section 7 of this Agreement, which is not cured within three days after written notice thereof to Executive; or

For purposes of this Agreement, any termination of Executive's employment by the Company for Cause shall be authorized by a vote of at least a majority of the nonemployee members of the Board. No termination for Cause shall take effect until the expiration of the correction period, if any, described above and the determination by a majority of the non-employee members of the Board that Executive has failed to correct the act or failure to act.

- (d) "Code" means the Internal Revenue Code of 1986, as amended.
- (e) "Disability" means, as a result of Executive's incapacity due to physical or mental illness, Executive shall have been unable, with or without a reasonable accommodation, to perform his duties with the Company on a full-time basis for six months and, within 30 days after a written notice of termination of employment is thereafter given by the Company, Executive shall not have returned to the full-time performance of Executive's duties.
- (f) "Good Reason" means a material adverse change in Executive's title, duties, authority or reporting relationship, without Executive's consent, excluding any inadvertent change that is remedied by the Company promptly after receipt of a written notice thereof from Executive or any other material breach of this Agreement that is not remedied by the Company promptly after receipt of a written notice thereof from Executive; provided, however, that during the two year period following a Change in Control (as such phrase is defined in the Change in Control Agreement), no Good Reason for termination shall have occurred under this Agreement unless Good Reason for termination exists under the terms of the Change in Control Agreement.
- (g) "Predecessor Entity" is any entity which, as a result of a merger, consolidation, purchase or acquisition of property or stock, corporate separation, or other similar business transaction transfers some or all of its employees to the Company or to a Related Entity or to a Predecessor Entity of the Company.
- (h) "Related Entity" includes any entity treated as a single employer with the Company in accordance with subsections (b), (c), (m) and (o) of Code Section 414.
- (i) "Release Agreement" means an agreement, substantially in a form approved by the Company, pursuant to which Executive releases all current or future claims, known or unknown, arising on or before the date of the release against the Company, its subsidiaries and its officers.

9. Certain Additional Payments by the Company.

- (a) Anything in this Agreement to the contrary notwithstanding, in the event that this Agreement becomes operative and it is determined (as hereafter provided) that any payment (other than the Gross-Up payments provided for in this Section 9 and Annex A) or distribution by the Company or any of its affiliates to or for the benefit of Executive, whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise pursuant to or by reason of any other agreement, policy, plan, program or arrangement, including without limitation any stock option, performance share, performance unit, stock appreciation right or similar right, or the lapse or termination of any restriction on or the vesting or exercisability of any of the foregoing (a "Payment"), would be subject to the excise tax imposed by Section 4999 of the Code (or any successor provision thereto) by reason of being considered "contingent on a change in ownership or control" of the Company, within the meaning of Section 280G of the Code (or any successor provision thereto) or to any similar tax imposed by state or local law, or any interest or penalties with respect to such tax (such tax or taxes, together with any such interest and penalties, being hereafter collectively referred to as the "Excise Tax"), then Executive will be entitled to receive an additional payment or payments (collectively, a "Gross-Up Payment"). The Gross-Up Payment will be in an amount such that, after payment by Executive of all taxes (including any interest or penalties imposed with respect to such taxes), including any Excise Tax imposed upon the Gross-Up Payment, Executive retains an amount of the Gross-Up Payment equal to the Excise Tax imposed upon the Payment. For purposes of determining the amount of the Gross-Up Payment, Executive will be considered to pay (x) federal income taxes at the highest rate in effect in the year in which the Gross-Up Payment will be made and (y) state and local income taxes at the highest rate in effect in the state or locality in which the Gross-Up Payment would be subject to state or local tax, net of the maximum reduction in federal income tax that could be obtained from deduction of such state and local taxes.
- (b) The obligations set forth in Section 9(a) will be subject to the procedural provisions described in Annex A.
- (c) Any Gross-Up Payment provided under this Section 9 and the procedural provisions described in Annex A shall be paid to the Executive at the time or times specified in Annex A but in no event later than the last day of the calendar year next following the calendar year in which the Executive remits the related taxes (together with any interest or penalties with respect to such taxes) which has resulted in the obligation of the Company to make such Gross-Up Payment. Any reimbursement by the Company of any fees, costs and expenses incurred by the Executive in connection with the determination of tax or which are incurred with respect to any audit, contest or litigation involving such taxes and which are required to be reimbursed in accordance with the provisions of Annex A shall be paid to the Executive at the time or times specified in Annex A but in no event later than the last day of the calendar year following the calendar year in which

the taxes that are the subject of the audit, contest or litigation are remitted by the Executive or, where no taxes are remitted, the end of the calendar year in which the audit is completed or there is a final and nonappealable settlement or other resolution of the contest or litigation.

10. Executive Representations. Executive represents and warrants to the Company that (a) the execution, delivery and performance of this Agreement by Executive does not and will not conflict with, breach, violate or cause a default under any contract, agreement, instrument, order, judgment or decree to which Executive is a party or by which Executive is bound, (b) Executive is not a party to or bound by any employment agreement, noncompete agreement or confidentiality agreement with any other person or entity and (c) upon the execution and delivery of this Agreement by the Company, this Agreement shall be the valid and binding obligation of Executive, enforceable in accordance with its terms.
11. Survival. Subject to any limits on applicability contained therein, Section 7 hereof shall survive and continue in full force in accordance with its terms notwithstanding any termination of the Employment Period.
12. Withholding of Taxes. The Company may withhold from any amounts payable under this Agreement all federal, state, city or other taxes as the Company is required to withhold pursuant to any applicable law, regulation or ruling.
13. Notices. Any notice provided for in this Agreement shall be in writing and shall be either personally delivered, sent by reputable overnight carrier or mailed by first class mail, return receipt requested, to the recipient at the address below indicated:

Notices to Executive:

Philip G. Heasley
c/o ACI Worldwide, Inc.
120 Broadway, Suite 3350
New York, NY 10271

Notices to the Company:

ACI Worldwide, Inc.
6060 Coventry Drive
Elkhorn, NE 68022
Attn: General Counsel

or such other address or to the attention of such other person as the recipient party shall have specified by prior written notice to the sending party. Any notice under this Agreement will be deemed to have been given when so delivered, sent or mailed.

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14. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, but this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.
15. Complete Agreement. This Agreement embodies the complete agreement and understanding between the parties with respect to the subject matter hereof and effective as of its date supersedes and preempts any prior understandings, agreements or representations by or between the parties, written or oral, which may have related to the subject matter hereof in any way.
16. Counterparts. This Agreement may be executed in separate counterparts, each of which shall be deemed to be an original and both of which taken together shall constitute one and the same agreement.
17. Successors and Assigns. This Agreement shall bind and inure to the benefit of and be enforceable by Executive, the Company and their respective heirs, executors, personal representatives, successors and assigns, except that neither party may assign any rights or delegate any obligations hereunder without the prior written consent of the other party. Executive hereby consents to the assignment by the Company of all of its rights and obligations hereunder to any successor to the Company by merger or consolidation or purchase of all or substantially all of the Company's assets, provided such transferee or successor assumes the liabilities of the Company hereunder.
18. Choice of Law. This Agreement shall be governed by the internal law, and not the laws of conflicts, of the State of Nebraska.
19. Amendment and Waiver. The provisions of this Agreement may be amended or waived only with the prior written consent of the Company and Executive, and no course of conduct or failure or delay in enforcing the provisions of this Agreement shall affect the validity, binding effect or enforceability of this Agreement. This Agreement is intended to comply with the provisions of Section 409A of the Internal Revenue Code so that the income inclusion provisions of said Section 409A do not apply to Executive, and the Company and Executive accordingly agree to such amendments to the Agreement as may be necessary or appropriate to reform the provisions of the Agreement to comply with the applicable requirements of Section 409A of the Internal Revenue Code and the regulations and Treasury guidance thereunder to prevent any of the benefits provided by this Agreement from being includible in Executive's gross income before being paid pursuant to this Agreement or otherwise subject to additional income taxes and interest penalties under Section 409A of the Internal Revenue Code.

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20. Delay of Payment Date for Nonqualified Deferred Compensation. Notwithstanding anything to the contrary in this Agreement, any payments to be made to Executive upon his separation from service (within the meaning of Section 409A of the Internal Revenue Code) which constitutes nonqualified deferred compensation (within the meaning of Section 409A of the Internal Revenue Code), will not be made to Executive until the earliest to occur of:

(a) the first day of the seventh month following the date of the Executive's separation from service; or

(b) Executive's death.

The foregoing provisions which delay the payment date of certain nonqualified deferred compensation shall only apply if the Executive is a "specified employee" (within the meaning of Section 409A of the Internal Revenue Code) as determined by the Company under the methodology established by the Company at the time of his separation from service.

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

ACI Worldwide, Inc.

Philip G. Heasley

By: /s/ Dennis P. Byrnes

/s/ Philip G. Heasley

Its: Senior Vice President

Annex A -Procedural provisions regarding the Gross Up Payment

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Annex A

Excise Tax Gross-Up Procedural Provisions

- (1) Subject to the provisions of Paragraph 5, all determinations required to be made under Section 9 and Annex A, including whether an Excise Tax is payable by Executive and the amount of such Excise Tax and whether a Gross-Up Payment is required to be paid by the Company to Executive and the amount of such Gross-Up Payment, if any, will be made by a nationally recognized accounting firm (the "National Firm") selected by Executive in Executive's sole discretion. Executive will direct the National Firm to submit its determination and detailed supporting calculations to both the Company and Executive within 30 calendar days after the date of termination of Executive's employment, if applicable, and any such other time or times as may be requested by the Company or Executive. If the National Firm determines that any Excise Tax is payable by Executive, the Company will pay the required Gross-Up Payment to Executive within five business days after receipt of such determination and calculations with respect to any Payment to Executive. If the National Firm determines that no Excise Tax is payable by Executive with respect to any material benefit or amount (or portion thereof), it will, at the same time as it makes such determination, furnish the Company and Executive with an opinion that Executive has substantial authority not to report any Excise Tax on Executive's federal, state or local income or other tax return with respect to such benefit or amount. As a result of the uncertainty in the application of Section 4999 of the Code and the possibility of similar uncertainty regarding applicable state or local tax law at the time of any determination by the National Firm hereunder, it is possible that Gross-Up Payments that will not have been made by the Company should have been made (an "Underpayment"), consistent with the calculations required to be made hereunder. In the event that the Company exhausts or fails to pursue its remedies pursuant to Paragraph 5 and Executive thereafter is required to make a payment of any Excise Tax, Executive will direct the National Firm to determine the amount of the Underpayment that has occurred and to submit its determination and detailed supporting calculations to both the Company and Executive as promptly as possible. Any such Underpayment will be promptly paid by the Company to, or for the benefit of, Executive within five business days after receipt of such determination and calculations.
- (2) The Company and Executive will each provide the National Firm access to and copies of any books, records and documents in the possession of the Company or Executive, as the case may be, reasonably requested by the National Firm, and otherwise cooperate with the National Firm in connection with the preparation and issuance of the determinations and calculations contemplated by Paragraph 1. Any determination by the National Firm as to the amount of the Gross-Up Payment will be binding upon the Company and Executive.
- (3) The federal, state and local income or other tax returns filed by Executive will be prepared and filed on a consistent basis with the determination of the National Firm with

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respect to the Excise Tax payable by Executive. Executive will report and make proper payment of the amount of any Excise Tax, and at the request of the Company, provide to the Company true and correct copies (with any amendments) of Executive's federal income tax return as filed with the Internal Revenue Service and corresponding state and local tax returns, if relevant, as filed with the applicable taxing authority, and such other documents reasonably requested by the Company, evidencing such payment. If prior to the filing of Executive's federal income tax return, or corresponding state or local tax return, if relevant, the National Firm determines that the amount of the Gross-Up Payment should be reduced, Executive will within five business days pay to the Company the amount of such reduction.

- (4) The fees and expenses of the National Firm for its services in connection with the determinations and calculations contemplated by Paragraph 1 will be borne by the Company. If such fees and expenses are initially paid by Executive, the Company will reimburse Executive the full amount of such fees and expenses within five business days after receipt from Executive of a statement therefor and reasonable evidence of Executive's payment thereof.
- (5) Executive will notify the Company in writing of any claim by the Internal Revenue Service or any other taxing authority that, if successful, would require the payment by the Company of a Gross-Up Payment. Such notification will be given as promptly as practicable but no later than 10 business

days after Executive actually receives notice of such claim and Executive will further apprise the Company of the nature of such claim and the date on which such claim is requested to be paid (in each case, to the extent known by Executive). Executive will not pay such claim prior to the expiration of the 30-calendar-day period following the date on which Executive gives such notice to the Company or, if earlier, the date that any payment of amount with respect to such claim is due. If the Company notifies Executive in writing prior to the expiration of such period that it desires to contest such claim, Executive will:

- (a) provide the Company with any written records or documents in Executive's possession relating to such claim reasonably requested by the Company;
- (b) take such action in connection with contesting such claim as the Company reasonably requests in writing from time to time, including without limitation accepting legal representation with respect to such claim by an attorney competent in respect of the subject matter and reasonably selected by the Company;
- (c) cooperate with the Company in good faith in order effectively to contest such claim; and
- (d) permit the Company to participate in any proceedings relating to such claim;

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provided, however, that the Company will bear and pay directly all costs and expenses (including interest and penalties) incurred in connection with such contest and will indemnify and hold harmless Executive, on an after-tax basis, for and against any Excise Tax or income or other tax, including interest and penalties with respect thereto, imposed as a result of such representation and payment of costs and expenses. Without limiting the foregoing provisions of this Paragraph 5, the Company will control all proceedings taken in connection with the contest of any claim contemplated by this Paragraph 5 and, at its sole option, may pursue or forego any and all administrative appeals, proceedings, hearings and conferences with the taxing authority in respect of such claim (provided, however, that Executive may participate therein at Executive's own cost and expense) and may, at its option, either direct Executive to pay the tax claimed and sue for a refund or contest the claim in any permissible manner, and Executive agrees to prosecute such contest to a determination before any administrative tribunal, in a court of initial jurisdiction and in one or more appellate courts, as the Company determines; provided, however, that if the Company directs Executive to pay the tax claimed and sue for a refund, the Company will advance the amount of such payment to Executive on an interest-free basis and will indemnify and hold Executive harmless, on an after-tax basis, from any Excise Tax or income or other tax, including interest or penalties with respect thereto, imposed with respect to such advance; and provided further, however, that any extension of the statute of limitations relating to payment of taxes for the taxable year of Executive with respect to which the contested amount is claimed to be due is limited solely to such contested amount. Furthermore, the Company's control of any such contested claim will be limited to issues with respect to which a Gross-Up Payment would be payable hereunder and Executive will be entitled to settle or contest, as the case may be, any other issue raised by the Internal Revenue Service or any other taxing authority.

- (6) If, after the receipt by Executive of an amount advanced by the Company pursuant to Paragraph 5, Executive receives any refund with respect to such claim, Executive will (subject to the Company's complying with the requirements of Paragraph 5) promptly pay to the Company the amount of such refund (together with any interest paid or credited thereon after any taxes applicable thereto). If, after the receipt by Executive of an amount advanced by the Company pursuant to Paragraph 5, a determination is made that Executive is not entitled to any refund with respect to such claim and the Company does not notify Executive in writing of its intent to contest such denial or refund prior to the expiration of 30 calendar days after such determination, then such advance will be forgiven and will not be required to be repaid and the amount of any such advance will offset, to the extent thereof, the amount of Gross-Up Payment required to be paid by the Company to Executive pursuant to Section 9 and this Annex A.

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CHANGE IN CONTROL EMPLOYMENT AGREEMENT

This CHANGE IN CONTROL EMPLOYMENT AGREEMENT (this “Agreement”), by and between ACI Worldwide, Inc., a Delaware corporation (the “Company”), and the executive of the Company designated on the signature page to this Agreement (the “Signature Page”) as the Executive (the “Executive”) is entered into effective as of the date (the “Contract Date”) set forth on the Signature Page.

WHEREAS, the Board of Directors of the Company (the “Board”), has determined that it is in the best interests of the Company and its stockholders to assure that the Company will have the continued dedication of the Executive, notwithstanding the possibility, threat or occurrence of a Change in Control (as defined herein). The Board believes it is imperative to diminish the inevitable distraction of the Executive by virtue of the personal uncertainties and risks created by a pending or threatened Change in Control and to encourage the Executive’s full attention and dedication to the Company in the event of any threatened or pending Change in Control, and to provide the Executive with compensation and benefits arrangements upon a Change in Control that ensure that the compensation and benefits expectations of the Executive will be satisfied and that provide the Executive with compensation and benefits arrangements that are competitive with those of other corporations. Therefore, in order to accomplish these objectives, the Board has authorized the Company to enter into this Agreement.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

Section 1. Certain Definitions.

(a) “Effective Date” means the first date during the Change in Control Period (as defined herein) on which a Change in Control occurs. Notwithstanding anything in this Agreement to the contrary, if a Change in Control occurs and if the Executive’s employment with the Company is terminated within six months prior to the date on which the Change in Control occurs, and if it is reasonably demonstrated by the Executive that such termination of employment (1) was at the request of a third party that has taken steps reasonably calculated to effect a Change in Control or (2) otherwise arose in connection with or anticipation of a Change in Control, then “Effective Date” means the date immediately prior to the date of such termination of employment.

(b) “Change in Control Period” means the period commencing on the date hereof and ending on the second anniversary of the date hereof; *provided, however*, that, commencing on the date one year after the date hereof, and on each annual anniversary of such date (such date and each annual anniversary thereof, the “Renewal Date”), unless previously terminated, the Change in Control Period shall be automatically extended so as to terminate two years from such Renewal Date, unless, at least 60 days prior to the Renewal Date, the Company shall give notice to the Executive that the Change in Control Period shall not be so extended.

(c) “Affiliated Company” means any company controlled by, controlling or under common control with the Company.

(d) “Change in Control” means:

(1) Any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”) (a “Person”) becomes the beneficial owner (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of 20% or more of either (A) the then-outstanding shares of common stock of the Company (the “Outstanding Company Common Stock”) or (B) the combined voting power of the then-outstanding voting securities of the Company entitled to vote generally in the election of directors (the “Outstanding Company Voting Securities”); *provided, however*, that, for purposes of this Section 1(d), the following acquisitions shall not constitute a Change in Control: (i) any acquisition directly from the Company, (ii) any acquisition by the Company, (iii) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any Affiliated Company, (iv) any acquisition by any Person pursuant to a transaction that complies with Sections 1(d)(3)(A) and 1(d)(3)(B); or (v) any acquisition of beneficial ownership of not more than 25% of the Outstanding Company Voting Securities by any Person that is entitled to and does report such beneficial ownership on Schedule 13G under the Exchange Act (a “13G Filer”), *provided, however*, that this clause (v) shall cease to apply when a Person who is a Schedule 13G Filer becomes required to file a Schedule 13D under the Exchange Act with respect to beneficial ownership of 20% or more of the Outstanding Company Common Stock or Outstanding Company Voting Securities. Notwithstanding any other provision hereof, if a Business Combination (as defined below) is completed during the Change in Control Period and the Outstanding Company Voting Securities are converted into voting securities of the Combined Company (as defined below), but such Business Combination does not constitute a “Change in Control” under Section 1(d)(3), “Outstanding Company Voting Securities” shall thereafter mean voting securities of the Combined Company entitled to vote generally in the election of the members of the Combined Company Board.

(2) Any time at which individuals who, as of the date hereof, constitute the Board (the “Incumbent Board”) cease for any reason to constitute at least a majority of the Board other than as a result of a Business Combination that does not constitute a “Change in Control” under Sections 1(d)(1) or 1(d)(3)(A); *provided, however*, that any individual becoming a director subsequent to the date hereof whose election, or nomination for election by the Company’s stockholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board (an “Election Contest”);

(3) Consummation of a reorganization, merger, statutory share exchange or consolidation or similar transaction involving the Company or any of its subsidiaries, a sale or other disposition of all or substantially all of the assets of the Company, or the acquisition of assets or stock of another entity by the Company or any of its subsidiaries (each, a “Business Combination”), in each case unless, following such Business Combination, (A) no Person (excluding any corporation resulting from such

Business Combination or any employee benefit plan (or related trust) of the Company or such corporation resulting from such Business Combination (the “Combined Company.”)) beneficially owns, directly or indirectly, such number of the then-Outstanding Company Voting Securities as would constitute a “Change in Control” under Section 1(d)(1), and at least one-half of the members of the board of directors (or, for a non-corporate entity, equivalent governing body) of the entity resulting from such Business Combination (the “Combined Company Board”) were members of the Incumbent Board at the time of the execution of the initial agreement or of the action of the Board providing for such Business Combination (the “Business Combination Agreement”), or (B) the Executive and the Company, each acting in his, her or its respective sole discretion, enter into an amendment to this Agreement providing for the Executive’s continued employment for not less than two years at levels of compensation and benefits that in the aggregate are not substantially less favorable to the Executive than those to which he or she was entitled prior to such Business Combination; or

- (4) Approval by the stockholders of the Company of a complete liquidation or dissolution of the Company.

Section 2. Employment Period. The Company hereby agrees to continue the Executive in its employ, subject to the terms and conditions of this Agreement, for the period commencing on the Effective Date and ending on the second anniversary of the Effective Date (the “Employment Period”), *provided, however*, that commencing on each annual anniversary of the Effective Date (such date and each annual anniversary thereof, the “Employment Period Renewal Date”), unless previously terminated, the Employment Period shall be automatically extended so as to terminate two years from such Employment Period Renewal Date, unless, at least 60 days prior to the Employment Period Renewal Date, the Company shall give notice to the Executive that the Employment Period shall not be so extended. The Employment Period shall terminate upon the Executive’s termination of employment for any reason.

Section 3. Terms of Employment.

(a) Position and Duties. (1) During the Employment Period, (A) the Executive’s position (including status, offices, titles and reporting requirements), authority, duties and responsibilities shall be at least commensurate in all material respects with the most significant of those held, exercised and assigned at any time during the 120-day period immediately preceding the Effective Date and (B) the Executive’s services shall be performed at the office where the Executive was employed immediately preceding the Effective Date or at any other location less than 50 miles from such office.

(2) During the Employment Period, and excluding any periods of vacation and sick leave to which the Executive is entitled, the Executive agrees to devote reasonable attention and time during normal business hours to the business and affairs of the Company and, to the extent necessary to discharge the responsibilities assigned to the Executive hereunder, to use the Executive’s reasonable best efforts to perform faithfully and efficiently such responsibilities. During the Employment Period, it shall not be a violation of this Agreement for the Executive to (A) serve on corporate, civic or charitable boards or committees, (B) deliver lectures, fulfill speaking engagements or teach at educational institutions and (C) manage personal investments, so long as such activities do not significantly interfere with the performance of the Executive’s

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responsibilities as an employee of the Company in accordance with this Agreement. It is expressly understood and agreed that, to the extent that any such activities have been conducted by the Executive prior to the Effective Date, the continued conduct of such activities (or the conduct of activities similar in nature and scope thereto) subsequent to the Effective Date shall not thereafter be deemed to interfere with the performance of the Executive’s responsibilities to the Company.

- (b) Compensation.

(1) Base Salary. During the Employment Period, the Executive shall receive an annual base salary (the “Annual Base Salary”) at an annual rate at least equal to the highest annual rate of base salary paid or payable, including any base salary that has been earned but deferred, to the Executive by the Company and the Affiliated Companies in respect of the 12-month period immediately preceding the month in which the Effective Date occurs. The Annual Base Salary shall be paid at such intervals as the Company pays executive salaries generally. During the Employment Period, the Annual Base Salary shall be reviewed at least annually, beginning no more than 12 months after the last salary increase awarded to the Executive prior to the Effective Date. Any increase in the Annual Base Salary shall not serve to limit or reduce any other obligation to the Executive under this Agreement. The Annual Base Salary shall not be reduced after any such increase and the term “Annual Base Salary” shall refer to the Annual Base Salary as so increased.

(2) Annual Bonus. In addition to the Annual Base Salary, the Executive shall be awarded, for each fiscal year ending during the Employment Period, total annual and quarterly bonus opportunities in cash at least equal to the aggregate of the Executive’s target annual and quarterly bonus opportunities for the year in which the Effective Date occurs (the “Target Annual Bonus”) (if the Executive has not been eligible to earn such a bonus for any period prior to the Effective Date or no such Target Annual Bonus has been established for the fiscal year or quarters (as applicable) in which the Effective Date occurs, the “Target Annual Bonus” shall mean the Executive’s most recent target annual and quarterly bonus opportunities as in effect for the year prior to the year in which the Effective Date occurs); *provided, however*, that (i) the performance measures applicable to such target bonus opportunities shall be comparable in terms of difficulty of achievement to the measures in effect with respect to the Target Annual Bonus prior to the Effective Date and (ii) in the determination of such bonuses, the Executive shall be treated as favorably as similarly situated executives of any acquiror of the Company. Each such annual bonus shall be paid no later than two and a half months after the end of the fiscal year for which the annual bonus is awarded, unless the Executive shall elect to defer the receipt of such annual bonus pursuant to an arrangement that meets the requirements of Section 409A of the Internal Revenue Code of 1986, as amended (the “Code”). For purposes of this Agreement, references to Section 409A of the Code shall include any proposed, temporary or final regulation, or any other formal guidance, promulgated with respect to such section by the U.S. Department of Treasury or the Internal Revenue Service.

(3) Incentive, Savings and Retirement Plans. During the Employment Period, the Executive shall be entitled to participate in all cash incentive, equity incentive, savings and retirement plans, practices, policies and programs applicable

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generally to other peer executives of the Company and the Affiliated Companies, but in no event shall such plans, practices, policies and programs provide the Executive with incentive opportunities (measured with respect to both regular and special incentive opportunities, to the extent, if any, that such distinction is applicable), savings opportunities and retirement benefit opportunities, in each case, less favorable, in the aggregate, than the most favorable of those provided by the Company and the Affiliated Companies for the Executive under such plans, practices, policies and programs as in effect at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive, those provided generally at any time after the Effective Date to other peer executives of the Company and the Affiliated Companies.

(4) Welfare Benefit Plans. During the Employment Period, the Executive and/or the Executive's family, as the case may be, shall be eligible for participation in and shall receive all benefits under welfare benefit plans, practices, policies and programs provided by the Company and the Affiliated Companies (including, without limitation, medical, prescription, dental, disability, employee life, group life, accidental death and travel accident insurance plans and programs) to the extent applicable generally to other peer executives of the Company and the Affiliated Companies, but in no event shall such plans, practices, policies and programs provide the Executive with benefits that are less favorable, in the aggregate, than the most favorable of such plans, practices, policies and programs in effect for the Executive at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive, those provided generally at any time after the Effective Date to other peer executives of the Company and the Affiliated Companies.

(5) Expenses. During the Employment Period, the Executive shall be entitled to receive prompt reimbursement for all reasonable expenses incurred by the Executive in accordance with the most favorable policies, practices and procedures of the Company and the Affiliated Companies in effect for the Executive at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive, as in effect generally at any time thereafter with respect to other peer executives of the Company and the Affiliated Companies.

(6) Office and Support Staff. During the Employment Period, the Executive shall be entitled to an office or offices of a size and with furnishings and other appointments, and to exclusive personal secretarial and other assistance, at least equal to the most favorable of the foregoing provided to the Executive by the Company and the Affiliated Companies at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive, as provided generally at any time thereafter with respect to other peer executives of the Company and the Affiliated Companies.

(7) Vacation. During the Employment Period, the Executive shall be entitled to paid vacation in accordance with the most favorable plans, policies, programs and practices of the Company and the Affiliated Companies as in effect for the Executive at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive, as in effect generally at any time thereafter with respect to other peer executives of the Company and the Affiliated Companies.

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Section 4. Termination of Employment.

(a) Death or Disability. The Executive's employment shall terminate automatically if the Executive dies during the Employment Period. If the Company determines in good faith that the Disability (as defined herein) of the Executive has occurred during the Employment Period (pursuant to the definition of "Disability"), it may give to the Executive written notice in accordance with Section 11(b) of its intention to terminate the Executive's employment. In such event, the Executive's employment with the Company shall terminate effective on the 30th day after receipt of such notice by the Executive (the "Disability Effective Date"), provided that, within the 30 days after such receipt, the Executive shall not have returned to full-time performance of the Executive's duties. "Disability" means the absence of the Executive from the Executive's duties with the Company on a full-time basis for 180 consecutive business days as a result of incapacity due to mental or physical illness that is determined to be total and permanent by a physician selected by the Company or its insurers and acceptable to the Executive or the Executive's legal representative.

(b) Cause. The Company may terminate the Executive's employment during the Employment Period with or without Cause. "Cause" means:

- (1) the Executive's conviction of, or entry of a plea of guilty or no contest to, a felony or any lesser crime of which fraud or dishonesty is an element,
- (2) the Executive's willful misconduct or willful omission of duties (other than any such misconduct or omission resulting from the Executive's incapacity due to physical or mental illness or following the Executive's delivery of a Notice of Termination for Good Reason) that is or could reasonably be expected to be injurious to the Company other than in an immaterial manner, or
- (3) the Executive's violation of any provision of (A) the Company's Code of Business Conduct and Ethics, as the same may be amended from time to time, or (B) the Company's Code of Ethics for the Chief Executive Officer and Senior Financial Officers, as the same may be amended from time to time (the "Code of Ethics") that is, in each case, materially and demonstrably injurious to the Company. For purposes of the foregoing sentence, the Executive shall be deemed to be subject to the provisions of the Code of Ethics regardless of whether the Executive is a Senior Officer as defined in the Code of Ethics or otherwise subject to the Code of Ethics.

For purposes of this Section 4(b), no act, or failure to act, on the part of the Executive shall be considered "willful" unless it is done, or omitted to be done, by the Executive in bad faith or without reasonable belief that the Executive's action or omission was in the best interests of the Company. Any act, or failure to act, based upon authority (A) given pursuant to a resolution duly adopted by the Board, or if the Company is not the ultimate parent corporation of the Affiliated Companies and is not publicly-traded, the board of directors of the ultimate parent of the Company (the "Applicable Board"), (B) upon the instructions of the Chief Executive Officer of the Company, or (C) based upon the advice of counsel for the Company shall be conclusively presumed to be done, or omitted to be done, by the Executive in good faith and in the best interests of the Company. The cessation of employment of the Executive shall not be deemed to be for Cause unless (i) "Cause" as defined herein exists and (ii) there shall have been delivered to the Executive a copy of a resolution duly adopted by the affirmative vote of not less than

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three-quarters of the entire membership of the Applicable Board (excluding the Executive, if the Executive is a member of the Applicable Board) at a meeting of the Applicable Board called and held for such purpose (after reasonable notice is provided to the Executive and the Executive is given an opportunity, together with counsel for the Executive, to be heard before the Applicable Board), finding that, in the good faith opinion of the board, the Executive is guilty of the conduct described in Section 4(b)(1), 4(b)(2) or 4(b)(3), and specifying the particulars thereof in detail.

(c) Good Reason. The Executive's employment may be terminated by the Executive for Good Reason or by the Executive voluntarily without Good Reason. "Good Reason" means:

(1) the assignment to the Executive of any duties inconsistent in any respect with the Executive's position (including status, offices, titles and reporting requirements), authority, duties or responsibilities as contemplated by Section 3(a), or any other diminution in such position, authority, duties or responsibilities, excluding for this purpose an isolated, insubstantial and inadvertent action not taken in bad faith and that is remedied by the Company promptly after receipt of notice thereof given by the Executive;

(2) any failure by the Company to comply with any of the provisions of Section 3(b), other than an isolated, insubstantial and inadvertent failure not occurring in bad faith and that is remedied by the Company promptly after receipt of notice thereof given by the Executive;

(3) the Company's requiring the Executive (i) to be based at any office or location other than as provided in Section 3(a)(1) (B), (ii) to be based at a location other than the principal executive offices of the Company if the Executive was employed at such location immediately preceding the Effective Date, or (iii) to travel on Company business to a substantially greater extent than required immediately prior to the Effective Date;

(4) any purported termination by the Company of the Executive's employment otherwise than as expressly permitted by this Agreement; or

(5) any failure by the Company to comply with and satisfy Section 10(c).

The Executive's mental or physical incapacity following the occurrence of an event described above in clauses (1) through (5) shall not affect the Executive's ability to terminate employment for Good Reason. A termination by the Executive with Good Reason shall be effective only if, within 180 days of the Executive's first becoming aware of the circumstances giving rise to Good Reason, the Executive delivers a Notice of Termination for Good Reason by Executive to the Company, and, to the extent such circumstances are curable, the Company within 30 days following its receipt of such notification has failed to cure the circumstances giving rise to Good Reason.

(d) Notice of Termination. Any termination by the Company for Cause, or by the Executive for Good Reason, shall be communicated by Notice of Termination to the other party hereto given in accordance with Section 11(b). "Notice of Termination" means a written

notice that (1) indicates the specific termination provision in this Agreement relied upon, (2) to the extent applicable, sets forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of the Executive's employment under the provision so indicated, and (3) if the Date of Termination (as defined herein) is other than the date of receipt of such notice, specifies the Date of Termination (which Date of Termination shall be not more than 30 days after the giving of such notice). The failure by the Executive or the Company to set forth in the Notice of Termination any fact or circumstance that contributes to a showing of Good Reason or Cause shall not waive any right of the Executive or the Company, respectively, hereunder or preclude the Executive or the Company, respectively, from asserting such fact or circumstance in enforcing the Executive's or the Company's respective rights hereunder.

(e) Date of Termination. "Date of Termination" means (1) if the Executive's employment is terminated by the Company for Cause, or by the Executive for Good Reason, the date of receipt of the Notice of Termination or any later date specified in the Notice of Termination, (which date shall not be more than 30 days after the giving of such notice), as the case may be, (2) if the Executive's employment is terminated by the Company other than for Cause or Disability, the date on which the Company notifies the Executive of such termination, (3) if the Executive resigns without Good Reason, the date on which the Executive notifies the Company of such termination, and (4) if the Executive's employment is terminated by reason of death or Disability, the date of death of the Executive or the Disability Effective Date, as the case may be.

Section 5. Obligations of the Company upon Termination.

(a) Good Reason; Other Than for Cause, Death or Disability. If the Company terminates the Executive's employment other than for Cause or Disability or the Executive terminates employment for Good Reason during the Employment Period:

(1) the Company shall pay to the Executive, in a lump sum in cash within 30 days after the Date of Termination, the aggregate of the following amounts:

(A) the sum of (i) the Executive's Annual Base Salary through the Date of Termination to the extent not theretofore paid, (ii) the product of (x) the Target Annual Bonus and (y) a fraction, the numerator of which is the number of days in the current fiscal year through the Date of Termination and the denominator of which is 365 (the "Pro-Rata Bonus"), and (iii) any accrued vacation pay to the extent not theretofore paid (the sum of the amounts described in subclauses (i), (ii) and (iii), the "Accrued Obligations"); and

(B) the amount equal to the product of (i) two [or in the case of Philip G. Heasley, the Company's Chief Executive Officer, only, three times] and (ii) the sum of (x) the Executive's Annual Base Salary and (y) the Target Annual Bonus;

(2) for two years [or in the case of Philip G. Heasley, the Company's Chief Executive Officer, only, three years] after the Executive's Date of Termination, or such longer period as may be provided by the terms of the appropriate plan, program, practice or policy (the "Benefit Continuation Period"), the Company shall continue benefits to the

Executive and/or the Executive's family at least equal to, and at the same after-tax cost to the Executive and/or the Executive's family, as those that would have been provided to them in accordance with the plans, programs, practices and policies described in Section 3(b)(4) (such benefits, the "Welfare Benefits") if the Executive's employment had not been terminated or, if more favorable to the Executive, as in effect generally at any time thereafter with respect to other peer executives of the Company and the Affiliated Companies and their families; *provided, however*, that, the medical, dental, prescription drug and vision benefits provided during the Benefit Continuation Period shall be provided in such a manner that such benefits (and the costs and premiums thereof) are excluded from the Executive's income for federal income tax purposes (if the Company reasonably determines that providing continued coverage under one or more of its welfare plans contemplated herein could be taxable to the Executive, the Company shall provide such benefits at the level required hereby through the purchase of individual coverage); and, *provided, further*, that if the Executive becomes reemployed with another employer and is eligible to receive such benefits under another employer provided plan, the medical and other welfare benefits described herein shall be secondary to those provided under such other plan during such applicable period of eligibility. For purposes of determining eligibility (but not the time of commencement of benefits) of the Executive for retiree benefits pursuant to such plans, practices, programs and policies, the Executive shall be considered to have remained employed until the end of the Benefit Continuation Period and to have retired on the last day of such period;

(3) the Company shall, at its sole expense as incurred, provide the Executive with outplacement services the scope and provider of which shall be selected by the Executive in the Executive's sole discretion, *provided* that the cost of such outplacement shall not exceed \$50,000; and *provided, further*, that such outplacement benefits shall end not later than the last day of the second calendar year that begins after the Date of Termination; and

(4) to the extent not theretofore paid or provided, the Company shall timely pay or provide to the Executive any Other Benefits (as defined in Section 6) in accordance with the terms of the underlying plans or agreements.

(b) Death. If the Executive's employment is terminated by reason of the Executive's death during the Employment Period, the Company shall provide the Executive's estate or beneficiaries with the Accrued Obligations and the timely payment or delivery of the Other Benefits, and shall have no other severance obligations under this Agreement. The Accrued Obligations shall be paid to the Executive's estate or beneficiary, as applicable, in a lump sum in cash within 30 days of the Date of Termination. With respect to the provision of the Other Benefits, the term "Other Benefits" as utilized in this Section 5(b) shall include, without limitation, and the Executive's estate and/or beneficiaries shall be entitled to receive, benefits at least equal to the most favorable benefits provided by the Company and the Affiliated Companies to the estates and beneficiaries of peer executives of the Company and the Affiliated Companies under such plans, programs, practices and policies relating to death benefits, if any, as in effect with respect to other peer executives and their beneficiaries at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive's estate and/or the Executive's beneficiaries, as in effect on the date of the Executive's

death with respect to other peer executives of the Company and the Affiliated Companies and their beneficiaries.

(c) Disability. If the Executive's employment is terminated by reason of the Executive's Disability during the Employment Period, the Company shall provide the Executive with the Accrued Obligations and the timely payment or delivery of the Other Benefits, and shall have no other severance obligations under this Agreement. The Accrued Obligations shall be paid to the Executive in a lump sum in cash within 30 days of the Date of Termination. With respect to the provision of the Other Benefits, the term "Other Benefits" as utilized in this Section 5(c) shall include, and the Executive shall be entitled after the Disability Effective Date to receive, disability and other benefits at least equal to the most favorable of those generally provided by the Company and the Affiliated Companies to disabled executives and/or their families in accordance with such plans, programs, practices and policies relating to disability, if any, as in effect generally with respect to other peer executives and their families at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive and/or the Executive's family, as in effect at any time thereafter generally with respect to other peer executives of the Company and the Affiliated Companies and their families.

(d) Cause; Other Than for Good Reason. If the Executive's employment is terminated for Cause during the Employment Period, the Company shall provide the Executive with the Executive's Annual Base Salary through the Date of Termination, and the timely payment or delivery of the Other Benefits, and shall have no other severance obligations under this Agreement. If the Executive voluntarily terminates employment during the Employment Period, excluding a termination for Good Reason, the Company shall provide to the Executive the Accrued Obligations and the timely payment or delivery of the Other Benefits, and shall have no other severance obligations under this Agreement. In such case, all the Accrued Obligations shall be paid to the Executive in a lump sum in cash within 30 days of the Date of Termination.

(e) Other. Without limiting the applicability of Section 5, if the Company terminates the Executive's employment without Cause or Disability and a notice of termination is given or such termination is effective within 15 months after the election of one or more individuals to the Board who were first nominated or recommended for election to the Board by any Person other than the Board or its Nominating and Corporate Governance Committee (or any Board committee performing similar functions (together with the Board, the "N&G Committee")) and such nomination was not recommended by the N&G Committee before such nomination or recommendation was first publicly announced by such Person or following the institution of an Election Contest proposing the election of one or more directors to the Board who, at the time such proposal is first publicly announced, were not recommended for election to the Board by the Board or the N&G Committee, then the Effective Date shall mean the date immediately preceding such termination and such termination shall be deemed to have occurred during the Employment Period for purposes of this Agreement. For the avoidance of doubt, this Section 5(e) will not apply if the Executive's employment is terminated by the Executive (whether or not Good Reason exists) or the Executive terminates employment for death or Disability.

(f) 409A Compliance. Notwithstanding the provisions of Sections 5(a), 5(c) and 5(d), in the event that the Executive is a "specified employee" within the meaning of Section 409A of the Code (as determined in accordance with the methodology established by the Company as in effect on the Date of Termination) and if any portion of the payments or benefits

to be received by the Executive under this Agreement upon his or her separation from service, including Sections 5(a), 5(c) or 5(d) would be considered deferred compensation under Section 409A of the Code, amounts that would otherwise be payable under Sections 5(a), 5(c) or 5(d) during the six-month period immediately following the Date of Termination (other than the amounts set forth in Sections 5(a)(1)(i) and 5(a)(1)(iii)) shall instead be paid, with interest on any delayed payment at the applicable federal rate provided for in Section 7872(f)(2)(A) of the Code (“Interest”), on the earlier of (i) the first business day after the date that is six months following the Executive’s “separation from service” within the meaning of Section 409A of the Code and (ii) the Executive’s death (the applicable date, the “Delayed Payment Date”). Each payment and benefit to be made or provided to the Executive under this Agreement shall be considered to be a separate payment and not one of a series of payments for purposes of Section 409A of the Code. A termination of employment shall not be deemed to have occurred for purposes of any provision of this Agreement providing for the payment of any amounts or benefits subject to Section 409A of the Code upon or following a termination of employment unless such termination is also a “separation from service” within the meaning of Section 409A of the Code. Notwithstanding any other provision to the contrary in this Section 5, the Welfare Benefits provided pursuant to Section 5(a)(2) that are not non-taxable medical benefits, “disability pay” or “death benefit plans” within the meaning of Treasury Regulation Section 1.409A-1(a)(5), and the reimbursement or in-kind benefits provided pursuant to Sections 7 and 8, shall be treated as follows (the “Reimbursement Rules”): (i) the amount of such benefits provided during one taxable year shall not affect the amount of such benefits provided in any other taxable year, except that to the extent such benefits consist of the reimbursement of expenses referred to in Section 105(b) of the Code, a limitation may be imposed on the amount of such reimbursements over some or all of the Benefit Continuation Period, as described in Treasury Regulation Section 1.409A-3(i)(1)(iv)(B), (ii) to the extent that any such benefits consist of reimbursement of eligible expenses, such reimbursement must be made on or before the last day of the calendar year following the calendar year in which the expense was incurred, and (iii) no such benefit may be liquidated or exchanged for another benefit.

Section 6. Non-exclusivity of Rights. Nothing in this Agreement shall prevent or limit the Executive’s continuing or future participation in any plan, program, policy or practice provided by the Company or the Affiliated Companies and for which the Executive may qualify, nor, subject to Section 11(f), shall anything herein limit or otherwise affect such rights as the Executive may have under any other contract or agreement with the Company or the Affiliated Companies. Amounts that are vested benefits or that the Executive is otherwise entitled to receive under any plan, policy, practice or program of or any other contract or agreement with the Company or the Affiliated Companies at or subsequent to the Date of Termination (“Other Benefits”) shall be payable in accordance with such plan, policy, practice or program or contract or agreement, except as explicitly modified by this Agreement. Without limiting the generality of the foregoing, the Executive’s resignation under this Agreement with or without Good Reason, shall in no way affect the Executive’s ability to terminate employment by reason of the Executive’s “retirement” under any compensation and benefits plans, programs or arrangements of the Affiliated Companies, including without limitation any retirement or pension plans or arrangements or to be eligible to receive benefits under any compensation or benefit plans, programs or arrangements of the Affiliated Companies, including without limitation any retirement or pension plan or arrangement of the Affiliated Companies or substitute plans adopted by the Company or its successors, and any termination which otherwise qualifies as Good Reason shall be treated as such even if it is also a “retirement” for purposes of any such

plan. Notwithstanding the foregoing, if the Executive receives payments and benefits pursuant to Section 5(a) of this Agreement, the Executive shall not be entitled to any severance pay or benefits under any severance plan, program or policy of the Company and the Affiliated Companies, unless otherwise specifically provided therein in a specific reference to this Agreement.

Section 7. Full Settlement. The Company’s obligation to make the payments provided for in this Agreement and otherwise to perform its obligations hereunder shall not be affected by any set-off, counterclaim, recoupment, defense or other claim, right or action that the Company may have against the Executive or others. In no event shall the Executive be obligated to seek other employment or take any other action by way of mitigation of the amounts payable to the Executive under any of the provisions of this Agreement, and such amounts shall not be reduced whether or not the Executive obtains other employment. The Company agrees to pay as incurred (within 10 days following the Company’s receipt of an invoice from the Executive), at any time from the date of this Agreement through the Executive’s remaining lifetime or, if longer, through the 20th anniversary of the Effective Date, to the full extent permitted by law, all reasonable legal fees and expenses that the Executive may incur as a result of any contest (regardless of the outcome thereof) by the Company, the Executive or others of the validity or enforceability of, or liability under, any provision of this Agreement or any guarantee of performance thereof (including as a result of any contest by the Executive about the amount of any payment pursuant to this Agreement), plus, in each case, Interest; *provided that* (a) the Executive shall have submitted an invoice for such fees and expenses at least 10 days before the end of the calendar year next following the calendar year in which such fees and expenses were incurred and (b) such reimbursements or in-kind benefits comply with the Reimbursement Rules.

Section 8. Certain Additional Payments by the Company.

(a) Anything in this Agreement or any other agreement by and between the Executive and the Company to the contrary notwithstanding and except as set forth below, in the event it shall be determined that any Payment would be subject to the Excise Tax, then the Executive shall be entitled to receive an additional payment (the “Gross-Up Payment”) in an amount such that, after payment by the Executive of all taxes (and any interest or penalties imposed with respect to such taxes), including, without limitation, any income taxes (and any interest and penalties imposed with respect thereto) and Excise Tax imposed upon the Gross-Up Payment, but excluding any income taxes and penalties imposed pursuant to Section 409A of the Code, the Executive retains an amount of the Gross-Up Payment equal to the Excise Tax imposed upon the Payments. Notwithstanding the foregoing provisions of this Section 8(a), if it shall be determined that the Executive is entitled to the Gross-Up Payment, but that the Parachute Value of all Payments does not exceed 110% of the Safe Harbor Amount, then no Gross-Up Payment shall be made to the Executive and the amounts payable under this Agreement shall be reduced so that the Parachute Value of all Payments, in the aggregate, equals the Safe Harbor Amount. The reduction of the amounts payable hereunder, if applicable, shall be made by first reducing the payments under Section 5(a)(1)(B), and then by reducing the cash value of the benefits contemplated by Sections 5(a)(2) and 5(a)(3), and in any event shall be made in such a manner as to maximize the Value of all Payments actually made to the Executive. For purposes of reducing the Payments to the Safe Harbor Amount, only amounts payable under this Agreement (and no other Payments) shall be reduced. If the reduction of the amount payable under this Agreement would not result in a reduction of the Parachute Value of all

Payments to the Safe Harbor Amount, no amounts payable under the Agreement shall be reduced pursuant to this Section 8(a). The Company's obligation to make Gross-Up Payments under this Section 8 shall not be conditioned upon the Executive's termination of employment.

(b) Subject to the provisions of Section 8(c), all determinations required to be made under this Section 8, including whether and when a Gross-Up Payment is required, the amount of such Gross-Up Payment and the assumptions to be utilized in arriving at such determination, shall be made by a nationally recognized certified public accounting firm (or a professional services firm with experience in making such determinations), as may be designated by the Executive (the "Accounting Firm"). The Accounting Firm shall provide detailed supporting calculations both to the Company and the Executive within 15 business days of the receipt of notice from the Executive that there has been a Payment or such earlier time as is requested by the Company. In the event that the Accounting Firm is serving as accountant or auditor for the individual, entity or group effecting the Change in Control, the Executive may appoint another nationally recognized accounting firm to make the determinations required hereunder (which accounting firm shall then be referred to as the Accounting Firm hereunder). All fees and expenses of the Accounting Firm shall be borne solely by the Company. Any determination by the Accounting Firm shall be binding upon the Company and the Executive. As a result of the uncertainty in the application of Section 4999 of the Code at the time of the initial determination by the Accounting Firm hereunder, it is possible that Gross-Up Payments that will not have been made by the Company should have been made (the "Underpayment"), consistent with the calculations required to be made hereunder. In the event the Company exhausts its remedies pursuant to Section 8(c) and the Executive thereafter is required to make a payment of any Excise Tax, the Accounting Firm shall determine the amount of the Underpayment that has occurred and any such Underpayment shall be promptly paid by the Company to or for the benefit of the Executive.

(c) The Executive shall notify the Company in writing of any claim by the Internal Revenue Service that, if successful, would require the payment by the Company of the Gross-Up Payment. Such notification shall be given as soon as practicable, but no later than 10 business days after the Executive is informed in writing of such claim. The Executive shall apprise the Company of the nature of such claim and the date on which such claim is requested to be paid. The Executive shall not pay such claim prior to the expiration of the 30-day period following the date on which the Executive gives such notice to the Company (or such shorter period ending on the date that any payment of taxes with respect to such claim is due). If the Company notifies the Executive in writing prior to the expiration of such period that the Company desires to contest such claim, the Executive shall:

- (1) give the Company any information reasonably requested by the Company relating to such claim,
- (2) take such action in connection with contesting such claim as the Company shall reasonably request in writing from time to time, including, without limitation, accepting legal representation with respect to such claim by an attorney reasonably selected by the Company,
- (3) cooperate with the Company in good faith in order effectively to contest such claim, and

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- (4) permit the Company to participate in any proceedings relating to such claim;

provided, however, that the Company shall bear and pay directly all costs and expenses (including additional interest and penalties) incurred in connection with such contest, and shall indemnify and hold the Executive harmless, on an after-tax basis, for any Excise Tax or income tax (including interest and penalties) imposed as a result of such representation and payment of costs and expenses. Without limitation on the foregoing provisions of this Section 8(c), the Company shall control all proceedings taken in connection with such contest, and, at its sole discretion, may pursue or forgo any and all administrative appeals, proceedings, hearings and conferences with the applicable taxing authority in respect of such claim and may, at its sole discretion, either pay the tax claimed to the appropriate taxing authority on behalf of the Executive and direct the Executive to sue for a refund or contest the claim in any permissible manner, and the Executive agrees to prosecute such contest to a determination before any administrative tribunal, in a court of initial jurisdiction and in one or more appellate courts, as the Company shall determine; *provided, however*, that, if the Company pays such claim and directs the Executive to sue for a refund, the Company shall indemnify and hold the Executive harmless, on an after-tax basis, from any Excise Tax or income tax (including interest or penalties) imposed with respect to such payment or with respect to any imputed income in connection with such payment; and *provided, further*, that any extension of the statute of limitations relating to payment of taxes for the taxable year of the Executive with respect to which such contested amount is claimed to be due is limited solely to such contested amount. Furthermore, the Company's control of the contest shall be limited to issues with respect to which the Gross-Up Payment would be payable hereunder, and the Executive shall be entitled to settle or contest, as the case may be, any other issue raised by the Internal Revenue Service or any other taxing authority. Reimbursements under this Section 8(c) shall be subject to Section 8(e).

(d) If, after the receipt by the Executive of a Gross-Up Payment or payment by the Company of an amount on the Executive's behalf pursuant to Section 8(c), the Executive becomes entitled to receive any refund with respect to the Excise Tax to which such Gross-Up Payment relates or with respect to such claim, the Executive shall (subject to the Company's complying with the requirements of Section 8(c), if applicable) promptly pay to the Company the amount of such refund (together with any interest paid or credited thereon after taxes applicable thereto). If, after payment by the Company of an amount on the Executive's behalf pursuant to Section 8(c), a determination is made that the Executive shall not be entitled to any refund with respect to such claim and the Company does not notify the Executive in writing of its intent to contest such denial of refund prior to the expiration of 30 days after such determination, then the amount of such payment shall offset, to the extent thereof, the amount of Gross-Up Payment required to be paid by the Company to the Executive pursuant to this Section 8; *provided, however*, that no offset shall apply to any amount subject to Section 409A of the Code.

(e) Any Gross-Up Payment, as determined pursuant to this Section 8, shall be paid by the Company within five days of the receipt of the Accounting Firm's determination; provided that, the Gross-Up Payment shall in all events be paid no later than the end of the Executive's taxable year next following the Executive's taxable year in which the Excise Tax (and any income or other related taxes or interest or penalties thereon) on a Payment are remitted to the Internal Revenue Service or any other applicable taxing authority or, in the case of amounts relating to a claim described in Section 8(c) that does not result in the remittance of any

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federal, state, local and foreign income, excise, social security and other taxes, the calendar year in which the claim is finally settled or otherwise resolved. The Gross-Up Payment shall be paid to the Executive; *provided* that, the Company, in its sole discretion, may withhold and pay over to the Internal Revenue Service or any other applicable taxing authority, for the benefit of the Executive, all or any portion of any Gross-Up Payment, and the Executive hereby consents to such withholding.

(f) Definitions. The following terms shall have the following meanings for purposes of this Section 8.

(i) “Excise Tax” shall mean the excise tax imposed by Section 4999 of the Code, together with any interest or penalties imposed with respect to such excise tax.

(ii) “Parachute Value” of a Payment shall mean the present value as of the date of the change of control for purposes of Section 280G of the Code of the portion of such Payment that constitutes a “parachute payment” under Section 280G(b)(2), as determined by the Accounting Firm for purposes of determining whether and to what extent the Excise Tax will apply to such Payment.

(iii) A “Payment” shall mean any payment or distribution in the nature of compensation (within the meaning of Section 280G(b)(2) of the Code) to or for the benefit of the Executive, whether paid or payable pursuant to this Agreement or otherwise.

(iv) The “Safe Harbor Amount” means 2.99 times the Executive’s “base amount,” within the meaning of Section 280G(b)(3) of the Code.

(v) “Value” of a Payment shall mean the economic present value of a Payment as of the date of the change of control for purposes of Section 280G of the Code, as determined by the Accounting Firm using the discount rate required by Section 280G(d)(4) of the Code.

Section 9. Confidential Information; Other Restrictive Covenants.

(a) Confidential Information. The Executive shall hold in a fiduciary capacity for the benefit of the Company all secret or confidential information, knowledge or data relating to the Company or the Affiliated Companies, and their respective businesses, which information, knowledge or data shall have been obtained by the Executive during the Executive’s employment by the Company or the Affiliated Companies and which information, knowledge or data shall not be or become public knowledge (other than by acts by the Executive or representatives of the Executive in violation of this Agreement). After termination of the Executive’s employment with the Company, the Executive shall not, without the prior written consent of the Company or as may otherwise be required by law or legal process, communicate or divulge any such information, knowledge or data to anyone other than the Company and those persons designated by the Company. In no event shall an asserted violation of the provisions of

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this Section 9 constitute a basis for deferring or withholding any amounts otherwise payable to the Executive under this Agreement.

(b) Covenants Following Termination of Employment. For a period of one (1) year following the termination of the Executive’s employment during the Employment Period, the Executive will not:

(1) enter into or engage in any business that competes with the Company’s Business within the Restricted Territory (as defined in Section 9(c));

(2) solicit customers with whom the Executive had any contact or for which the Executive had any responsibility (either direct or supervisory) at the Date of Termination or at any time during the one (1) year prior to such Date of Termination, whether within or outside of the Restricted Territory, or solicit business, patronage or orders for, or sell, any products and services in competition with, or for any business that competes with the Company’s Business within the Restricted Territory;

(3) divert, entice or otherwise take away any customers, business, patronage or orders of the Company within the Restricted Territory, or attempt to do so;

(4) promote or assist, financially or otherwise, any person, firm, association, partnership, corporation or other entity engaged in any business that competes with the Company’s Business within the Restricted Territory; or

(5) solicit or induce or attempt to solicit or induce any employee(s), sales representative(s), agent(s) or consultant(s) of the Company and/or its affiliated companies to terminate their employment, representation or other association with the Company and/or its affiliated companies, *provided* that the foregoing shall not apply to general advertising not specifically targeted at employees, sales representatives, agents or consultants of the Company and/or its affiliated companies.

Notwithstanding the foregoing, it shall not be a violation of this Section 9(b) for the Executive to join a division or business line of a commercial enterprise with multiple divisions or business lines if such division or business line is not competitive with the Company’s Business, *provided* that the Executive performs services solely for such non-competitive division or business line, and performs no functions on behalf of (and has no involvement with or direct or indirect responsibilities with respect to) businesses competitive with the Company’s Business. Nothing in this Section 9(b) shall prohibit the Executive from being a passive owner of not more than 4.9% of the outstanding equity interest in any entity which is publicly traded, so long as the Executive has no active participation in the business of such corporation.

(c) Restricted Territory. For the purposes of Section 9(b), the Restricted Territory shall be defined as and limited to the geographic area(s) within a 100 mile radius of any and all areas in which the Company was located immediately prior to the Effective Date in, to, or for which Executive worked, to which Executive was assigned or had any responsibility (either direct or supervisory) at the Date of Termination and at any time during the one (1) year prior to the Date of Termination.

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(d) Company’s Business. For purposes of Section 9(b), the Company’s Business is defined to be the development and sale of software products that facilitate electronic payments, as further described in any and all manufacturing, marketing and sales manuals and materials of the Company in effect immediately prior to the Effective Date, or of any other products or services substantially similar to or readily suitable for any such described products.

Section 10. Successors.

(a) This Agreement is personal to the Executive, and, without the prior written consent of the Company, shall not be assignable by the Executive other than by will or the laws of descent and distribution. This Agreement shall inure to the benefit of and be enforceable by the Executive's legal representatives.

(b) This Agreement shall inure to the benefit of and be binding upon the Company and its successors and assigns. Except as provided in Section 10(c), without the prior written consent of the Executive, this Agreement shall not be assignable by the Company.

(c) The Company will require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business and/or assets of the Company to assume expressly and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform it if no such succession had taken place. "Company" means the Company as hereinbefore defined and any successor to its business and/or assets as aforesaid that assumes and agrees to perform this Agreement by operation of law or otherwise.

Section 11. Miscellaneous.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without reference to principles of conflict of laws. The captions of this Agreement are not part of the provisions hereof and shall have no force or effect. This Agreement may not be amended or modified other than by a written agreement executed by the parties hereto or their respective successors and legal representatives.

(b) All notices and other communications hereunder shall be in writing and shall be given by hand delivery to the other party or by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the Executive:

At the most recent address on file at the Company.

if to the Company:

ACI Worldwide, Inc.
6060 Coventry Drive
Elkhorn, NE 68022
Attention: General Counsel

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or to such other address as either party shall have furnished to the other in writing in accordance herewith. Notice and communications shall be effective when actually received by the addressee.

(c) In the event of a Change in Control, all stock-based awards shall vest in full, in each case immediately prior to the occurrence of such Change in Control, and any applicable performance-based vesting goals with respect to such stock-based awards granted to the Executive shall be deemed satisfied at the target level; *provided, however*, that (i) any LTIP Performance Shares awarded under the Company's 2005 Equity and Performance Incentive Plan and (ii) any stock options which vest upon the attainment of a certain per-share transaction price in connection with a Change in Control granted under the Company's 2005 Equity and Performance Incentive Plan, shall, in each case, vest pursuant to the terms of the applicable award agreement, notwithstanding the provision of any award agreement requiring that market conditions exist for a specified duration of time. For purpose of this Section 11(c), stock-based awards shall include stock options, restricted shares, restricted units and any other equity-based compensation awards. In the event that the Change in Control does not constitute a "change in control event" within the meaning of Section 409A of the Code, the delivery of shares of common stock or cash (as applicable) in settlement of any such stock-based awards that constitute "nonqualified deferred compensation" within the meaning of Section 409A of the Code shall be made on upon the first permissible payment event under Section 409A of the Code on which the shares or cash would otherwise be delivered or paid. Notwithstanding the definition of "change in control" or "change of control" in any agreement, plan or arrangement governing such stock-based awards, the definition of Change in Control in this Agreement shall supersede such definitions in all respects with respect to such stock-based awards.

(d) The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

(e) The Company may withhold from any amounts payable under this Agreement such United States federal, state or local or foreign taxes as shall be required to be withheld pursuant to any applicable law or regulation.

(f) The Executive's or the Company's failure to insist upon strict compliance with any provision of this Agreement or the failure to assert any right the Executive or the Company may have hereunder, including, without limitation, the right of the Executive to terminate employment for Good Reason pursuant to Sections 4(c)(1) through 4(c)(5), shall not be deemed to be a waiver of such provision or right or any other provision or right of this Agreement.

(g) The Executive and the Company acknowledge that, except as may otherwise be provided under any other written agreement between the Executive and the Company, the employment of the Executive by the Company is "at will" and, subject to Sections 1 and 5, prior to the Effective Date, the Executive's employment may be terminated by either the Executive or the Company at any time prior to the Effective Date, in which case the Executive shall have no further rights under this Agreement. Except as specifically provided herein, this Agreement shall supersede any other agreement between the parties with respect to the subject matter hereof; including, without limitation, any agreement set forth on Appendix A attached hereto and incorporated herein by this reference.

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(h) No later than 10 days prior to the Effective Date, the Company shall deliver cash, in an amount equal to the sum of (A) the aggregate of the cash amounts that could be payable under Section 5(a) (plus any estimated Interest), (B) the estimated Gross-Up Payment, if any, as determined by the Accounting Firm and (C) the aggregate of the cash value of any amounts deferred by the Executive under any "nonqualified deferred compensation plan" within the meaning of Section 409A of the Code, to a "rabbi trust" (the "Trust") to be established by the Company prior to such delivery of cash with a nationally recognized financial institution as trustee (the "Trustee") to be held by the Trustee pursuant to the terms of the trust agreement entered into between the Company and the Trustee prior to the Effective Date; *provided, however*, that the Trust shall not be funded if the funding thereof would result in taxable income to the Executive by reason of Section 409A(b) of the Code. The Company shall be responsible for any fees and expenses of the Trustee.

(i) To the extent applicable, it is intended that this Agreement comply with the provisions of Section 409A of the Code. This Agreement shall be administered in a manner consistent with this intent.

(j) Executive acknowledges and agrees that no change in control, as defined under this Agreement or any other prior agreement, has occurred prior to the Contract Date.

Next page is the Signature Page

IN WITNESS WHEREOF, the Executive has hereunto set the Executive's hand and, pursuant to the authorization from the Board, the Company has caused these presents to be executed in its name on its behalf, all effective as of December 31, 2008.

ACI Worldwide, Inc.

Executive

By: _____

Signature: _____

Its: _____

Printed Name: _____

APPENDIX A

Prior Agreements
