

Consulting Agreement

AGREEMENT dated as of this 21st day of November, 2011, by and between D. E. Shaw & Co., L.P., a Delaware limited partnership, and Lawrence Summers (the "Senior Adviser").

WHEREAS, for purposes of this Agreement, the following capitalized terms have the meanings ascribed to them below (certain other capitalized terms are defined in other sections of this Agreement):

"Company" means D. E. Shaw & Co., L.P. (solely with respect to the period in which it retains the Senior Adviser) and, as applicable, any other member of the D. E. Shaw Group that has retained or may in the future retain the Senior Adviser.

"D. E. Shaw Group" means, collectively: (a) D. E. Shaw & Co., L.P. and D. E. Shaw & Co., L.L.C.; (b) D. E. Shaw & Co., Inc. and D. E. Shaw & Co. II, Inc. (the general partner and managing member, respectively, of the foregoing); (c) any entity, trust, or unincorporated association that any of the foregoing owns, directly or indirectly and in whole or in part, or for which any of the foregoing acts, directly or indirectly, as general partner, manager, managing member, investment manager, or management company; and (d) any affiliate of any of the foregoing or of David E. Shaw.

WHEREAS, the Company desires to retain (or to continue to retain) the Senior Adviser on the terms and conditions hereinafter set forth, and the Senior Adviser is willing to undertake (or to continue to undertake) the tasks requested by the Company upon such terms and conditions;

NOW, THEREFORE, in consideration of the foregoing and in consideration of their mutual promises and agreements contained herein, the parties hereto agree as follows:

1. Term of Agreement

(a) *Term.* The term of this Agreement (the "Term") shall commence (or has commenced) on September 13, 2011, and shall continue until December 31, 2012 (the "Termination Date"), unless terminated earlier pursuant to the terms of this Agreement. This Agreement may be terminated by either party upon notice to the other party, in which case the effective date of such notice shall be the "Termination Date"; provided, however, that in the event this Agreement is terminated (x) by the Company without the Senior Adviser's consent during the Term for a reason other than a Covered Reason (as defined in paragraph (b) below) or (y) by the Senior Adviser during the Term following the occurrence of a Good Reason (as defined in paragraph (c) below) and a Covered Reason has not occurred prior to the Senior Adviser's notice of such termination, the Company shall pay to the Senior Adviser an amount equal to (1) \$2,583,333.33 less (2) all the fees that the Senior Adviser will have already received from the Company or its affiliates during or on account of the Term pursuant to Section 3(a) below. Such amount, if positive, will be paid to the Senior Adviser on or before the 60th day following the Termination Date (the "Early Termination Payment"), subject to the requirements of Section 1(d) below. For the avoidance of doubt, if this Agreement is terminated due to a voluntary termination by the Senior Adviser without Good Reason or involuntary termination by the Company for a Covered Reason, then no Early Termination Payment shall be due under this Section 1 or otherwise, regardless of the particular circumstances of the termination.

(b) *Covered Reason.* For the purposes of this Agreement, "Covered Reason" means (1) a material breach by the Senior Adviser of the Senior Adviser's obligations under this Agreement, including but not limited to the restrictive covenants set forth in Sections 4, 5, and 6 of this

Agreement, which material breach, if reasonably susceptible of cure, is not remedied by the Senior Adviser within 15 business days following written notice to the Senior Adviser of such material breach (provided that, in each case, a material breach shall be deemed not to be reasonably susceptible of cure if such material breach has caused, or could reasonably be expected to cause, harm to the Company or its reputation); (2) the Senior Adviser's failure or refusal to perform any duties required in good faith by the Company in the course of the Senior Adviser's engagement by the Company, which failure or refusal is not remedied by the Senior Adviser within 15 business days of the Senior Adviser's receipt of written notice that the Senior Adviser will be terminated for a Covered Reason if the Senior Adviser continues to fail or to refuse to perform such duties; (3) the Senior Adviser's material violation of any compliance policy of the Company applicable to the Senior Adviser; (4) the conviction of the Senior Adviser of, or plea of guilty or *nolo contendere* by the Senior Adviser to, a felony or serious criminal offense; (5) the commission by the Senior Adviser of any criminal offense in connection with the Senior Adviser's engagement by the Company that causes (or could reasonably be expected to cause) harm to the Company or its reputation; (6) any significant violation by the Senior Adviser of any securities or commodities laws or regulations; (7) the perpetration or attempted perpetration by the Senior Adviser of a dishonest or disloyal act or common law fraud that causes (or could reasonably be expected to cause) harm to the Company, including but not limited to any attempted misappropriation of business opportunities from the Company and any expression of a statement that is libelous *per se* or slanderous *per se* concerning the Company; (8) the Senior Adviser's material violation of any policy applicable to the Senior Adviser, copies of which policies have been made available to the Senior Adviser; (9) the Senior Adviser's entrance into an employment or consulting relationship (or expansion of an existing relationship) with another hedge fund manager or investment adviser or any single financial institution (excluding (x) any entity whose business consists predominantly of venture capital investing, (y) any relationship in which the Senior Advisor is not raising funds, or (z) any relationship in which the Senior Advisor is not providing advice regarding markets, trading, and/or asset management, provided that the provision of generalized commentary on economic outlook and conditions shall not be construed as the provision of advice regarding markets, trading, and/or asset management), such that the other relationship requires more of the Senior Adviser's business time over the Term of this Agreement than he spends rendering services to the Company; (10) the Senior Adviser provides marketing, fundraising, or branding support with respect to asset management products and/or services to another hedge fund manager or investment adviser or financial institution (excluding any entity whose business consists predominantly of venture capital investing) that exceeds the level of such support provided by the Senior Adviser to the Company; and/or (11) the Senior Adviser's commencement of an employment relationship or other business relationship or activity (including without limitation service on an entity's board of directors or similar governing body) that could reasonably be expected to expose the D. E. Shaw Group to material legal or compliance risks or otherwise be materially detrimental to the D. E. Shaw Group's interests. For the avoidance of doubt, "detrimental" shall include without limitation commercial detriment.

(c) *Good Reason*. For the purposes of this Agreement, "Good Reason" means, without the Senior Advisor's prior written consent, (1) a material breach by the Company of the Company's obligations under this Agreement (other than the Company's obligations set forth in Section 8 below), including but not limited to a material breach by the Company of the Company's

obligations under Section 3 of this Agreement; (2) the assignment to the Senior Advisor of duties materially inconsistent with the Senior Advisor's position, duties, or responsibilities as contemplated by Section 2 of this Agreement; or (3) a change in the reporting person from that contemplated by Section 2 of this Agreement to any person other than a member of the Company's Executive Committee; provided, however, that a termination of the Senior Advisor's services pursuant to clause (1), (2), or (3) shall not be deemed to be for Good Reason unless (A) the Senior Advisor has provided to the Company, within 30 days of the occurrence of the circumstance or event that the Senior Adviser believes would permit a termination of the Senior Advisor's services for Good Reason, written notice of the Senior Adviser's belief that such circumstance or event has occurred, and (B) such circumstance or event has not been remedied by the Company within 30 days following the Company's receipt of such notice.

(d) *Release.* In the event an Early Termination Payment is to be paid pursuant to this Section 1, the Senior Adviser must execute and deliver to the Company the release attached hereto as Exhibit A within 45 days following the Termination Date, and such release must have become effective in accordance with its terms.

2. Senior Adviser's Services

The Senior Adviser is being retained to provide services as a Senior Adviser. The Senior Adviser's duties will include providing investing advice; advice regarding investment opportunities and macroeconomic developments; marketing, fundraising, and recruitment assistance as may be mutually agreed by the Company and the Senior Adviser from time to time; and any other duties that are agreed to by the Company and the Senior Adviser from time to time. The Senior Adviser will dedicate such time to his duties as he reasonably believes is necessary to perform his duties. Consistent with the Senior Adviser's discussions with the Company, this will require approximately ten (10) percent of the Senior Adviser's business time. The Senior Adviser will report to Max Stone. The Senior Adviser's duties will not include a requirement to lobby government officials or speak publicly on behalf of the Company or its affiliates without the Senior Adviser's consent. For the avoidance of doubt, the introduction of Company employees to government officials (as may be mutually agreed by the Company and the Senior Adviser from time to time) shall not be interpreted to constitute lobbying. The Company shall provide mutually agreed technical resources to the Senior Adviser, such as a Company-issued BlackBerry and/or laptop computer, in order to facilitate confidential communications between the Senior Adviser and Company personnel.

3. Senior Adviser's Fees

(a) *Compensation.* Beginning on September 13, 2011, fees for services rendered during the Term of this Agreement will be \$166,666.67 per month (pro-rated for any partial months of service during the Term, including any partial months following an early termination pursuant to Section 1(a) above), payable in arrears within five (5) business days of the last day of each month.

(b) *Expenses.* The Senior Adviser may bill the Company for direct travel-related expenses incurred in connection with providing services to the Company, including without limitation travel between Boston and New York City and lodging in New York City when performing Company work in New York City, provided that the Senior Adviser shall obtain prior

written approval from the Company for any single expense exceeding \$5,000. The Senior Adviser may utilize the Company's preferred travel agent for any necessary travel and hotel reservations in lieu of seeking reimbursement for such expenses. In order to be eligible for reimbursement, such direct expenses must be documented for the Company with such detail as shall be satisfactory to the Company (in its reasonable discretion). In the event prior written approval is not obtained as required or such satisfactory detail is not provided, the Company shall not have any obligation (under this Agreement or otherwise) to compensate the Senior Adviser for such direct expenses. The Senior Adviser's overhead expenses, including without limitation home office costs, membership fees for professional organizations, subscriptions to trade-related publications and news services, will not be paid by the Company and are the responsibility of the Senior Adviser, unless the Company in writing agrees otherwise.

(c) *Exclusive Fees.* The fees described in this Section 3 shall be the exclusive fees due to the Senior Adviser from the Company during or on account of the services of the Senior Adviser. If directed by the Company, the Senior Adviser shall provide the services described in this Agreement to one or more affiliates of the Company without compensation other than as specified in this Section 3. For the avoidance of doubt, the Senior Adviser's entering into this Agreement and providing the services hereunder shall not result in any claw-back or forfeiture of any compensation amounts previously paid to the Senior Adviser in connection with his prior employment relationship with the Company which terminated on or about December 31, 2008.

4. Disclosure to the Company

(a) *Disclosure of Information to the Company.* The Senior Adviser shall promptly disclose and deliver over to the Company, without additional compensation, to the extent that such disclosure could reasonably be expected to be of interest to any member of the D. E. Shaw Group, in writing, or in such form and manner as the Company may reasonably require

(i) any and all computational algorithms, procedures or techniques directly related to investing and/or asset management and to the Senior Adviser's work with the Company, and the essential ideas and principles underlying such algorithms, procedures or techniques, conceived, originated, discovered, developed, acquired, evaluated, tested, or applied by the Senior Adviser during and in connection with the Senior Adviser's relationship with the Company, whether or not such algorithms, procedures or techniques are embodied in a computer program;

(ii) any and all trading and order execution strategies, the essential ideas and principles on which such strategies are based, and any information that might reasonably be expected to lead to the development of such strategies, conceived, originated, discovered, developed, acquired, evaluated, tested, or employed by the Senior Adviser during and in connection with the Senior Adviser's relationship with the Company, whether or not such strategies are embodied in a computer program; and

(iii) any and all market inefficiencies or anomalies, statistical price relationships or patterns, or phenomena related to the execution of orders, discovered, investigated, acquired, evaluated, measured, or exploited by the Senior Adviser during and in connection with the Senior Adviser's relationship with the Company, whether or not such inefficiencies, anomalies, relationships, patterns, or phenomena are embodied in a computer program.

(b) *Disclosure of Information Acquired Prior to or Subsequent to the Execution of this Agreement.* The provisions of this Section 4 shall apply to information acquired by the Senior Adviser at any time during and in connection with the Senior Adviser's relationship with the Company during the Term, whether prior to or subsequent to the execution of this Agreement, provided that nothing in this Section 4 shall require the Senior Adviser to disclose any items of information developed outside the scope of his duties under this Agreement, it being understood that the Senior Adviser is not performing services solely for the Company during the term of this Agreement. Without limiting the generality of the foregoing, the Senior Adviser is engaged in independent research and nothing in this Agreement shall require the Senior Adviser to disclose any items of information developed with respect to such independent research, prohibit the Senior Adviser from continuing to engage in such independent research, or entitle any member of the D.E. Shaw Group to obtain an ownership interest in such independent research.

The Senior Adviser agrees not to disclose to any member of the D. E. Shaw Group any confidential or proprietary information belonging to any of the Senior Adviser's employers or clients, or belonging to any other party, without first securing the written permission of such employers or other parties. In addition, the Senior Adviser agrees that Senior Adviser will not bring with Senior Adviser any confidential or proprietary information belonging to any of Senior Adviser's employers or clients or to any other person, that Senior Adviser will refrain from using while retained by any member of the D. E. Shaw Group any such confidential or proprietary information, and that Senior Adviser will comply with the non-disclosure, non-compete, and other provisions of Senior Adviser's agreements with Senior Adviser's employers and clients and with other persons.

5. Confidential Information

(a) *Definition of Confidential Information.* The parties acknowledge that, in order to permit the Senior Adviser to successfully perform and/or continue to perform the services for which the Senior Adviser was contracted by the Company, it is necessary for the Company to provide the Senior Adviser with access to certain valuable proprietary information and knowledge of certain modes of business operation ("Confidential Information") which are essential to the profitable operation of the D. E. Shaw Group and certain of its members, and which give the D. E. Shaw Group and certain of its members a competitive advantage over other firms pursuing related business activities. In this Section 5, each reference to the "D. E. Shaw Group" includes a reference to each member of the D. E. Shaw Group individually. In the context of this Agreement, the term "Confidential Information" shall be deemed to include

(i) the identity of the D. E. Shaw Group's limited partners, clients, investors, joint venturers, or customers;

(ii) computer software or data of any sort developed (in the case of software) or compiled (in the case of data) by the D. E. Shaw Group;

(iii) computational algorithms, procedures or techniques, or the essential ideas and principles underlying such algorithms, procedures or techniques, developed by, or whose workings are otherwise known to, the D. E. Shaw Group (but excluding any public domain algorithms, procedures or techniques), whether or not such algorithms, procedures or techniques are embodied in a computer program;

(iv) trading and order execution strategies developed, investigated, acquired, evaluated, modified, tested, or employed by the D. E. Shaw Group, or any information related to, or that might reasonably be expected to lead to the development of such strategies, whether or not such information is embodied in a computer program;

(v) information related to any market inefficiencies or anomalies, statistical price relationships or patterns, or phenomena related to the execution of orders discovered, investigated, acquired, evaluated, measured, or exploited by the D. E. Shaw Group, whether or not such information is embodied in a computer program;

(vi) the results of any analysis conducted by the D. E. Shaw Group through either the execution of actual or simulated trading experiments or the execution of computational studies involving historical data, including but not limited to price and economic data;

(vii) information regarding the rate of return, variability of return, or other statistical measures associated with any trading strategy developed, investigated, acquired, evaluated, modified, tested, or employed by the D. E. Shaw Group, or any other information regarding the performance of such a strategy;

(viii) information related to the trading volume, capital deployment, or transaction costs associated with any of the D. E. Shaw Group's trading strategies, or with the D. E. Shaw Group's trading in the aggregate;

(ix) any information that would typically be included in the D. E. Shaw Group's financial statements, including, but not limited to the amount of the D. E. Shaw Group's assets, liabilities, net worth, revenues, expenses, or net income;

(x) information regarding the classes of financial instruments traded or studied by the D. E. Shaw Group, or the classes of financial instruments known or believed by the Senior Adviser on the basis of the Senior Adviser's activities in the course of and through the Senior Adviser's association with the Company to offer the potential for profitable investment, trading, or market-making activities;

(xi) non-public information related to financial or other products or services developed, acquired, researched, or modified by the D. E. Shaw Group;

(xii) any other information gained in the course of the Senior Adviser's relationship with the Company that could reasonably be expected to prove deleterious to the D. E. Shaw Group if disclosed to third parties, including without limitation any information that could reasonably be expected to aid a competitor or potential competitor of the D. E. Shaw Group (a "Competitor") in making inferences regarding the nature of the D. E. Shaw Group's business activities, where such inferences could reasonably be expected to allow such a Competitor to compete more effectively with the D. E. Shaw Group;

(xiii) any other information gained in the course of or incident to the Senior Adviser's relationship with the Company that the D. E. Shaw Group has received from a third party and is required to hold confidential in connection with an agreement between the D. E. Shaw Group and such third party; and

(xiv) any other information gained in the course of the Senior Adviser's term of service with the Company that the Company treats or designates as Confidential Information and that is not publicly available.

(b) Use and Disclosure of Confidential Information.

(i) The Senior Adviser acknowledges that the Senior Adviser has acquired and/or will acquire Confidential Information in the course of or incident to the Senior Adviser's relationship with the Company, and that the business activities of the D. E. Shaw Group and/or the ability of the D. E. Shaw Group to continue in business could be seriously jeopardized if such Confidential Information were to be used by the Senior Adviser or by other persons or firms to compete with the D. E. Shaw Group. Accordingly, the Senior Adviser agrees that the Senior Adviser shall not, directly or indirectly, at any time, during the term of this Agreement or at any time thereafter, and without regard to when or for what reason, if any, such relationship shall terminate, use or cause to be used any such Confidential Information, whether acquired prior to or subsequent to the execution of this Agreement, in connection with any activity or business except the business of the D. E. Shaw Group, and shall not disclose such Confidential Information to any individual, partnership, corporation, or other entity except (1) as such disclosure has been specifically authorized in writing by D. E. Shaw & Co., L.P., or (2) as may be required by any applicable law or by order of a court of competent jurisdiction, a regulatory or self-regulatory body, or a governmental body. For the avoidance of doubt, the Senior Adviser may request the Company's authorization to disclose information about a trade strategy or trade idea developed by the Senior Adviser that the Company has not pursued and does not intend to pursue, and, if such authorization is granted in writing (including by email) by a member of the Company's Executive Committee, such information may be disclosed by the Senior Adviser to a third party following the Senior Adviser's receipt of such authorization without violating this Section 5. Any request pursuant to the foregoing sentence may be granted or denied in the Company's sole discretion.

(ii) The provisions of Section 5(b)(i) notwithstanding, the Senior Adviser shall be free to disclose or use any information which is in or which enters the public domain prior to the time of such disclosure or use except where such information enters the public domain as a result of unauthorized actions of the Senior Adviser. The Senior Adviser acknowledges, however, that a large number of market inefficiencies and trading strategies, and a large number of analyses, observations, and findings from which such market inefficiencies and trading strategies might be derived, have been or may be reported in the open literature, or may otherwise have entered or may enter the public domain, and that one of the Company's most valuable forms of Confidential Information is its accumulated knowledge, based on research, analysis, and experimentation not reported in the open literature or otherwise falling within the public domain, of which of these market inefficiencies and trading strategies, and which of these analyses, observations, and findings, are likely to form the basis for practical, profitable trading strategies ("Confidential Applicability Information"). The Senior Adviser thus agrees that the Senior Adviser shall not, directly or indirectly, at any time, during the term of this Agreement, or at any time thereafter, and without regard to when or for what reason, if any, such relationship shall terminate, use or cause to be used any Confidential Applicability Information in connection with any activity or business except the business of the D. E. Shaw Group, and shall not disclose such Confidential Applicability Information to any individual, partnership, corporation, academic institution, or other entity, unless what would otherwise be deemed to constitute Confidential Applicability Information is itself in or itself enters the public domain by some means other than as a result of unauthorized actions of the Senior Adviser, or unless such disclosure has been specifically authorized in writing by D. E. Shaw & Co., L.P., or except as may be required by any applicable law or by order of a court of competent jurisdiction, a regulatory or self-regulatory body, or a governmental body.

(iii) In the event that the Senior Adviser is required to disclose Confidential Information or Confidential Applicability Information pursuant to judicial or administrative process or other requirements of law, the Senior Adviser will (A) to the extent permitted by law, promptly notify the Company of the Senior Adviser's receipt of such process and prior to any disclosure being made, and (B) to the extent reasonably practicable, if disclosure is required or deemed advisable, cooperate with the Company in any attempt that it may make in order to obtain an order or other reliable assurance that confidential treatment will be accorded to designated portions of such information. If no such order is obtained by the Company, disclosure of such information by the Senior Adviser shall not be deemed a violation of this Agreement. The Senior Adviser shall be entitled to reimbursement for the Senior Adviser's reasonable expenses, including the fees and expenses of the Senior Adviser's counsel, in connection with action taken pursuant to this paragraph.

(iv) The provisions of Sections 5(b)(i), 5(b)(ii) and 5(b)(iii) notwithstanding, the Senior Adviser shall be free to disclose or use any information which was obtained by the Senior Adviser prior to the Senior Adviser's relationship with the Company, or which is obtained by the Senior Adviser subsequent to and independent of the Senior Adviser's relationship with the Company. For the avoidance of doubt, the provisions of Section 5(b)(i), 5(b)(ii) and 5(b)(iii) notwithstanding, the Senior Adviser shall be free to disclose or use any information which was obtained by the Senior Adviser after the termination of the Senior Adviser's employment relationship with the Company on or about December 31, 2008, and prior to the commencement of the Senior Adviser's consulting relationship with the Company under this Agreement.

(v) The provisions of Section 5(b)(i), 5(b)(ii) and 5(b)(iii) notwithstanding, the Senior Adviser shall, with the prior written permission of D. E. Shaw & Co., L.P., be free to disclose selected Confidential Information to a limited number of parties for the purpose of securing employment subsequent to the Senior Adviser's relationship with the Company or progressing professionally, provided further that where such disclosure would not be harmful to the D. E. Shaw Group, such permission shall not be unreasonably withheld. For purposes of this Section 5(b)(v), the termination of this Agreement shall not in itself be deemed materially harmful to the D. E. Shaw Group, even if such termination is voluntary.

(vi) The provisions of Section 5(b)(i) and 5(b)(ii) notwithstanding, the Senior Adviser shall be able to use and disclose Confidential Information as D. E. Shaw & Co., L.P. deems necessary for the performance of the Senior Adviser's assignments in connection with this Agreement.

(c) *Certain Property Matters.*

(i) All right, title and interest of every kind and nature whatsoever, whether now known or unknown, in and to any intellectual property, including any inventions, trade secrets, patents, trademarks, service marks, trade dress, trade names, copyrights, films, video media, scripts, tests, software, applications, creations and properties invented by, created by, written by, developed by, taped by, filmed by, produced by, or furnished or disclosed by or to the Senior Adviser related, to and/or provided in the course of the Senior Adviser's rendering services to the Company under this Agreement ("Intellectual Property"), shall, as between the parties hereto, be and remain the sole and exclusive property of the Company for any and all purposes and uses whatsoever, and the Senior Adviser and the Senior Adviser's successors and assigns shall have no right, title, or interest of any kind or nature therein or thereto, or in or to any

results and proceeds therefrom. Any works of authorship shall be “works made for hire” to the maximum extent permitted by law. For the avoidance of doubt, Intellectual Property shall not include third-party information from public domain sources or published research (“Third-Party Information”) that is merely conveyed by the Senior Adviser to the Company in the course of the Senior Adviser’s rendering services to the Company, and the Senior Adviser shall be free to disclose or use such Third-Party Information notwithstanding anything to the contrary in this Agreement.

(ii) The Senior Adviser hereby makes, and agrees to make, any assignment necessary to accomplish the immediately preceding paragraph and agrees to perform any act reasonably requested by the Company in furtherance of such assignment. The Senior Adviser hereby irrevocably designates and appoints the Company and its officers, agents and representatives as the Senior Adviser’s agents and attorneys-in-fact, with full power of substitution, to act for and on the Senior Adviser’s behalf to execute and file any document necessary or appropriate to accomplish such assignment and to perform any other lawfully permitted act to accomplish such assignment, in each case, with the same effect as if executed, filed or performed by the Senior Adviser.

(iii) In the event any Intellectual Property is based upon or incorporates the rights of any party who is not a party to this contract and the Senior Adviser is not permitted to grant ownership rights to the Company as provided in Clause (i), then the Senior Adviser shall identify such Intellectual Property to the Company and, to the extent the Senior Adviser has the right to sublicense such Intellectual Property, hereby grants to the Company a perpetual, worldwide, royalty-free and non-exclusive sublicensable right and license to exploit and exercise all such Intellectual Property. In the event that the Senior Adviser does not have the right to sublicense such Intellectual Property, the Senior Adviser will (A) notify the Company of the identity of the owner of such Intellectual Property in writing and in advance of furnishing such Intellectual Property to the Company; and (B) unless granted a written waiver from the Company, use best efforts to assist the Company in obtaining any license to such Intellectual Property, not use such Intellectual Property for the benefit of the Company, and not furnish the Intellectual Property to the Company until the Company has notified the Senior Adviser in advance and in writing that the Company is willing to accept such Intellectual Property. The Company, however, may elect to reject the provision of such Intellectual Property. The Company’s use of any Intellectual Property shall not constitute a waiver of the provisions of this paragraph.

(d) *No Waiver of Trade Secret Protection.* Nothing contained in this Agreement shall be deemed to weaken or waive any rights related to the protection of trade secrets that the Company may have under common law or any applicable statutes.

(e) *Return and Ownership of Documents and Work Product.* Upon the termination of the Senior Adviser’s retention by the Company for any reason, the Senior Adviser promises and agrees to return immediately to the Company any and all Confidential Information and all other materials or documents, including without limitation written or printed documents, electronic and facsimile transmissions, computer disks and tapes, and other electronic media, belonging to the Company which contain information pertaining to the D. E. Shaw Group’s business, methods, clients, potential clients, customers, potential customers, funding providers, potential funding providers, or employees, unless the Company consents in writing to the Senior Adviser’s retention thereof.

6. Competitive Activities

(a) *Competition During Period of Agreement.* Prior to the termination of this Agreement, the Senior Adviser will notify Max Stone (or another member of the Company's Executive Committee) prior to entering into any employment or consulting relationship (or expanding an existing relationship) with another hedge fund manager or investment adviser or any single financial institution (excluding any entity whose business consists predominantly of venture capital investing) such that the other relationship requires more of the Senior Adviser's business time over the Term of this Agreement than he spends rendering services to the Company.

(b) *Solicitation of the D. E. Shaw Group's Employees.* Prior to the termination of this Agreement and for a period of 12 months after the Termination Date, the Senior Adviser will not, directly or indirectly, without the written consent of a member of the Company's Executive Committee, and whether or not for compensation, either on the Senior Adviser's own behalf or as an employee, officer, agent, consultant, director, owner, partner, joint venturer, shareholder, investor, or in any other capacity knowingly:

(i) solicit, persuade, encourage or induce any employee of a member of the D. E. Shaw Group (or any consultant, sales agent, contract programmer, or other independent agent who is retained on a full-time or substantially full-time basis by a member of the D. E. Shaw Group) to cease his or her employment with or retention by the D. E. Shaw Group; or

(ii) employ, or retain as a consultant or contractor, or cause to be so employed or retained, or enter into a business relationship with any person who (A) is an employee of a member of the D. E. Shaw Group or (B) has been employed by a member of the D. E. Shaw Group at any time within the 18 months prior to the date of such employment, retention, or entrance into a business relationship (a "Related Person").

(c) *Exception for Certain Activities.* The provisions of Section 6(b) notwithstanding, the Senior Adviser shall become free nine months after the Termination Date to employ, retain, cause to be employed or retained, or enter into a business relationship with any Related Person provided that neither the Senior Adviser nor any Related Person directly or indirectly trades or invests in financial instruments or engages in business activities competitive with the business activities of the D. E. Shaw Group in the course of such employment, retention, or business relationship. In addition, a general solicitation for services that is not specifically targeted at Related Persons shall not constitute a violation of this Section 6 and solicitations for non-business related services shall not constitute a violation of this Section 6.

7. Reasonableness of Covenants

(a) *Certain Recognitions.* The Senior Adviser acknowledges that the restrictions specified in Sections 5 and 6 of this Agreement are reasonable in view of the nature of the business in which the D. E. Shaw Group is engaged, the Senior Adviser's relationship with the Company, and the Senior Adviser's knowledge of the D. E. Shaw Group's business. The Senior Adviser recognizes that the amount of the Senior Adviser's compensation reflects the Senior Adviser's Agreement in Sections 5 and 6, and acknowledges that the Senior Adviser will not be subject to undue hardship by reason of the Senior Adviser's agreements set forth in Sections 5 and 6.

(b) *Modification of Restriction.* Notwithstanding anything contained in Sections 5 or 6 of this Agreement to the contrary, if a court of competent jurisdiction should hold any restriction specified in Sections 5 or 6 to be unreasonable, unenforceable, illegal or invalid, then

that restriction shall be limited to the extent necessary to be enforceable, and only to that extent. In particular, and without limitation on the foregoing, if any provision of Sections 5 or 6 should be held to be unenforceable as to scope or length of time or geographical area involved, such provision shall be deemed to be enforceable as to, and shall be deemed to be amended to cover, the maximum scope, maximum length of time, or broadest area, as the case may be, which is then lawful.

(c) *Survival of Covenants.* The obligations of the Senior Adviser under Sections 5 and 6 of this Agreement shall survive the termination of this Agreement and of the Senior Adviser's relationship with the Company.

8. Compliance with Applicable Law; Related Obligations

(a) *Compliance with Applicable Law.* The parties agree to abide by all applicable laws and all applicable rules and regulations of governmental agencies, including without limitation the U.S. Securities & Exchange Commission, the Financial Industry Regulatory Authority, Inc., the Commodity Futures Trading Commission, and all other applicable self-regulatory organizations, in connection with the Senior Adviser's relationship with the Company. It is understood that the Senior Adviser will not disclose to the D. E. Shaw Group any confidential or proprietary information belonging to any of the Senior Adviser's previous employers, or to any other parties, without first securing the written permission of such previous employers or other parties.

(b) *Disclosure and Notice Requirements.* In order to avoid actual or potential conflicts of interest and/or the inadvertent receipt of material nonpublic information, upon the commencement of the Term of this Agreement and periodically thereafter during the Term, the Senior Adviser shall, upon the request of the Executive Committee and/or the Company's Chief Compliance Officer, supply the Company with information concerning activities and businesses in which he is involved, provided that in no event shall the Senior Advisor be required to provide confidential or proprietary information or trade secrets to any member of the D.E. Shaw Group. In addition, during the Term, the Senior Adviser shall provide advance notice to the Executive Committee and the Chief Compliance Officer prior to becoming involved in any new activities or businesses that (1) involve service on a public company board of directors (or similar governing body), (2) involve the securities or investment businesses, or (3) otherwise could reasonably be expected to result in the Senior Adviser obtaining access to material non-public information.

(c) *Access to Personal Trading Records.* Provided that the D. E. Shaw Group has a reasonable basis for making any request pursuant to this Section 8(c), during the Term of this Agreement and for a period of three months following the Term, the Senior Adviser agrees to promptly accommodate any request by the D. E. Shaw Group for access to copies of account statements and trade confirmations for the Senior Adviser's personal securities and commodities transactions, which includes activity in personal accounts and related accounts in which the Senior Adviser has a direct or indirect financial interest or over which the Senior Adviser has the power to make investment decisions or exercise control. (Examples of related accounts may include without limitation joint accounts, accounts of one's spouse, accounts of minor children, and trusts in which the Senior Adviser is a trustee or has a beneficiary interest.)

(d) *Pre-Approval of Campaign Contributions.* During the Term of this Agreement, the Senior Adviser agrees to comply with the compliance policies of the D. E. Shaw

Group applicable to "Covered Associates" that require the Company's pre-approval of all campaign contributions, including coordinating or soliciting contributions, to any political candidates, political officers, campaign committees, party committees, political organizations, or political action committees (PACs), whether at the local, state, or federal level, by Covered Associates or their spouses and minor children.

9. Relationship of the Parties

The relationship between the Company and the Senior Adviser hereunder is agreed to be solely that of independent contractors. Nothing contained herein and no modification of responsibility or compensation made hereafter shall be construed so as to constitute the parties as partners or joint venturers. In addition, the Senior Adviser shall not be considered an employee, partner, or legal representative of the Company for any purpose whatsoever. The Senior Adviser is not granted, and at no time shall imply or claim that the Senior Adviser possesses, any right or authority to assume or create any obligation or responsibility on behalf or in the name of the Company or to bind it in any manner whatsoever. For the avoidance of doubt, the Senior Adviser is not entitled to any benefits provided by the Company to the Company's employees, and the Company shall not withhold any taxes from any payments to be made to the Senior Adviser under this Agreement unless directed by any applicable taxing authority.

10. Remedies

(a) *Injunctions, Restraining Orders, and Other Equitable Relief.* The Senior Adviser acknowledges that any breach of this Agreement may cause the D. E. Shaw Group irreparable harm for which there is no adequate remedy at law, and as a result of this, the members of the D. E. Shaw Group shall be entitled to seek the issuance by a court of competent jurisdiction of an injunction, restraining order, or other equitable relief in favor of itself, without the necessity of posting a bond, restraining the Senior Adviser from committing or continuing to commit any such violation, and the Senior Adviser will not contest any request for such equitable relief regarding a breach of the obligations under Sections 4, 5, or 6 above on the grounds that (i) the members of the D. E. Shaw Group have an adequate remedy at law or (ii) the members of the D. E. Shaw Group must post a bond prior to the issuance of any such equitable relief. Any right to obtain an injunction, restraining order, or other equitable relief hereunder shall not be deemed a waiver of any right to assert any other remedy the members of the D. E. Shaw Group may have at law or in equity.

(b) *Limitation of Liability.* The Senior Adviser agrees that the obligations of the D. E. Shaw Group arising under (or relating to) this Agreement shall be without recourse to any partner of the D. E. Shaw Group, any controlling person thereof, and any successor of any such partner or controlling person, and no such partner, controlling person, or successor shall have any liability in such capacity for the obligations of the D. E. Shaw Group. For the avoidance of doubt, each such partner, controlling person, and successor, and each of the members of the D. E. Shaw Group, is a third-party beneficiary of this Section 10(b).

11. Amendment or Alteration

No amendment or alteration of the terms of this Agreement shall be valid unless made in writing and signed by both of the parties hereto.

12. Governing Law

This Agreement and its enforcement shall be governed by, and construed in accordance with, the laws of the State of New York (without regard to conflicts-of-law principles).

13. Severability

The holding of any provision of this Agreement to be illegal, invalid, or unenforceable by a court of competent jurisdiction shall not affect any other provision of this Agreement, which shall remain in full force and effect.

14. Waiver

The failure of a party to insist upon strict adherence to any term of this Agreement on any occasion or occasions shall not be considered a waiver thereof or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement.

15. Entire Agreement

This Agreement contains the entire agreement of the parties and shall supersede any and all existing agreements between the Senior Adviser and the Company relating to the subject matter hereof. The parties acknowledge that in choosing to accept the Company's offer of retention (and/or to continue such retention), the parties have not relied on any warranties, representations, or promises by the other party or their representatives except as specifically set forth herein.

16. Assignment

Except as otherwise provided in this paragraph, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, representatives, successors and assigns. Neither this Agreement nor any right or interest hereunder shall be assignable by the Senior Adviser, the Senior Adviser's beneficiaries, or legal representatives without the Company's prior written consent; provided, however, that nothing in this Section 16 shall preclude the Senior Adviser from designating a beneficiary to receive any benefit payable hereunder upon the Senior Adviser's death, or the executors, administrators, or other legal representatives of the Senior Adviser or the Senior Adviser's estate from assigning any rights hereunder to the person or persons entitled thereunto. This agreement shall be assignable by the Company only to a subsidiary or affiliate of the Company; to any corporation, limited liability company, partnership, or other entity that may be organized by the Company, its members, its general partners, or its officers, as a separate business unit in connection with the business activities of the Company or of its members, its general partners or officers; or to any corporation, limited liability company, partnership, or other entity resulting from the reorganization, merger or consolidation of the Company with any other corporation, limited liability company, partnership, or other entity or any corporation, limited liability company, partnership, or other entity to or with which all or any portion of the Company's business or assets may be sold, exchanged or transferred. 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. For the purpose of this paragraph, "Company" means the Company as hereinbefore defined and any successor as aforesaid that assumes and agrees to perform this Agreement by operation of law or otherwise.

17. No Attachment

Except as required by law, no right to receive payments under this Agreement shall be subject to anticipation, commutation, alienation, sale, assignment, encumbrance, charge, pledge, or hypothecation, or to execution, attachment, levy, or similar process or assignment by operation of law, and any attempt, voluntary or involuntary, to effect any such action shall be null, void and of no effect.

18. No Coercion or Duress

The Senior Adviser enters into this Agreement with full understanding of the nature and extent of the restrictive covenants contained herein, and acknowledges that because of the nature of the Company's business, this Agreement would not be entered into without the restrictive covenants contained herein.

The parties acknowledge and agree that they are each entering into this Agreement voluntarily and of their own free will in order to obtain the benefits set forth herein. The parties acknowledge and agree that they have not been coerced or suffered any duress in order to enter into this Agreement.

19. Headings

The Section headings appearing in this Agreement are used for convenience of reference only and shall not be considered a part of this Agreement or in any way modify, amend or affect the meaning of any of its provisions.

20. Rules of Construction

Whenever the context so requires, the use of the masculine gender shall be deemed to include the feminine and vice versa, and the use of the singular shall be deemed to include the plural and vice versa.

21. Acknowledgment of Receipt

By signing below, the Senior Adviser acknowledges receiving a copy of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

D. E. SHAW & CO., L.P.

By: 

Max Stone
Managing Director

SENIOR ADVISER

By: _____
Lawrence Summers

Address:
[At the most recent address on file at the Company]

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

D. E. SHAW & CO., ■

By: _____
Max Stone
Managing Director

SENIOR ADVISER

By: Lawrence H. Summers
Lawrence Summers

Address: 207 Fisher Ave, Brookline, MA
[At the most recent address on file at the Company] 02445

Exhibit A

General Release and Agreement

Please read this Agreement carefully. It contains a release of all known and unknown claims.

General Release and Agreement (the "Release") dated as of the date set forth in the signature lines below, between Lawrence Summers (the "Senior Adviser") and D. E. Shaw & Co., [REDACTED] (the "Company").

WHEREAS, the Senior Adviser and the Company have entered into a Consulting Agreement dated as of November __, 2011 (the "Consulting Agreement"); and

WHEREAS, the parties agree that the Consulting Agreement has been terminated prior to the expiration of its Term (as defined in the Consulting Agreement) and in a manner that obligates the Company to pay the Senior Adviser the Early Termination Payment (as defined in the Consulting Agreement), subject to the terms of the Consulting Agreement;

NOW, THEREFORE, the Senior Adviser and the Company agree as follows:

1. The Company agrees to pay the Early Termination Payment to the Senior Adviser in accordance with the express terms of the Consulting Agreement, provided that the Senior Adviser complies with the terms of this Release and the Consulting Agreement. Payment of the Early Termination Payment provided for by the Consulting Agreement will fully discharge the Company of all obligations to the Senior Adviser whatsoever, including without limitation payments of any consulting fee, salary, bonus, incentive compensation, commission, or any other obligation, whether due under the Consulting Agreement or otherwise. The Senior Adviser agrees that the payment of the Early Termination Payment is provided in consideration for the release, waivers, and other benefits to the Company set forth in this Release.

2. The Senior Adviser agrees that the Senior Adviser releases and forever discharges the D. E. Shaw Group (as defined in the Consulting Agreement), its affiliates, and the officers, principals, owners, employees, directors, agents, representatives, and controlling persons of the foregoing (collectively, whether current or former, "Covered Persons and Entities") of and from any and all claims or demands (known or unknown) the Senior Adviser has, may have, or will have as of the date of this Release, except for the Early Termination Payment, any indemnity or exculpation obligations that exist under applicable organizational documents of the D. E. Shaw Group or applicable law, or any entitlement to coverage under applicable management liability insurance policies. This includes a release of any rights or claims the Senior Adviser may have under the Age Discrimination in Employment Act of 1967 (the "ADEA"), which prohibits age discrimination in employment; Title VII of the Civil Rights Act of 1964, which prohibits discrimination in employment based on race, color, national origin, religion, sex, or pregnancy; the Equal Pay Act, which prohibits paying men and women unequal pay for equal work; the Americans with Disabilities Act of 1991, which prohibits discrimination in employment against qualified persons with a disability; and any other federal, state, or local anti-discrimination, anti-retaliation, or wage laws or any other federal, state, or local laws or regulations pertaining to the Senior Adviser's retention by the Company or the termination of such retention. The release and discharge also includes a release and discharge by the Senior Adviser of any claims for wrongful discharge, for violation of any contract (express or implied), for breach of any covenant of good faith and fair dealing, for any tort, and/or for any other legal claim whatsoever relating to the Senior Adviser's retention or the termination of such retention.

3. The Senior Adviser represents and warrants to the Company that the Senior Adviser has not made, filed, or lodged any complaints, charges, or lawsuits or otherwise directly or indirectly commenced any proceeding against any member of the D. E. Shaw Group and/or any Covered Persons and Entities with any governmental agency, department, or official; any regulatory authority; or any court, other tribunal, or other dispute resolution body.

The Senior Adviser further represents and warrants that the Senior Adviser has not previously assigned or transferred any claims and/or rights that are the subject of the release and/or discharge contained in this Release.

4. This Release contains a settlement of disputed and contested matters between the parties and is the product of arm's-length negotiations. This Release shall not be construed as an admission of any sort by either party that such party has acted wrongfully with respect to the other party or any other person. Each party specifically disclaims any liability to or wrongful acts against each other or any other person.

This Release shall not be used as evidence or otherwise admitted in a proceeding of any kind, except by the D. E. Shaw Group, D. E. Shaw Group affiliates, and/or any Covered Persons and Entities as a defense to any claim by the Senior Adviser. In the event of a violation of this Release by the Senior Adviser, the Company shall be entitled to a refund of the Early Termination Payment and to recover from the Senior Adviser all reasonable attorneys' fees incurred by the Company in connection with any such violation.

5. The Senior Adviser acknowledges and agrees that:

- (a) the Senior Adviser has carefully read and understands the terms of this Release;
- (b) the Senior Adviser has signed this Release freely and voluntarily and without threats, duress, or coercion and with full knowledge of its significance and consequences and of the rights relinquished, released, and discharged under this Release;
- (c) the only consideration for signing this Release are the terms stated in this Release and the Consulting Agreement; no other agreement, representation, or statement of any kind has been made to the Senior Adviser relating to those agreements; and Senior Adviser is not relying on any other agreement, representation, or statement;
- (d) the Senior Adviser assumes the risk of any unknown or undisclosed facts or information, whether occurring intentionally or inadvertently;
- (e) the Senior Adviser has been given at least forty-five (45) days within which to consider this Release; and
- (f) the Senior Adviser was advised to consult an attorney prior to executing this Release. The Senior Adviser understands that whether or not to consult an attorney is the Senior Adviser's decision.

6. This Release and its enforcement shall be governed by, and construed in accordance with, the laws of the State of New York (without regard to conflicts-of-law principles). Each party acknowledges and agrees that all continuing provisions of the Consulting Agreement shall remain in full force and effect and shall not be modified by this Release.

7. This Release, together with the continuing provisions of the Consulting Agreement, constitutes an integrated agreement, containing the entire understanding of the parties with respect to the matters addressed in these agreements. For the avoidance of doubt, any reference to the Senior Adviser's release of employment-based claims in paragraph 2 above or paragraph 10 below shall not be deemed to modify the terms of Section 9 of the Consulting Agreement.

8. The Senior Adviser agrees that this Release shall bind the Senior Adviser and his or her heirs, assigns, legal beneficiaries, executors, legal administrators, estate, and legal representatives. The Senior Adviser agrees that all of the members of the D. E. Shaw Group and its Covered Persons and Entities are third party beneficiaries of all of the provisions of this Release.

9. If any provision of this Release is deemed by a court or regulatory body of competent jurisdiction unenforceable or contrary to any applicable law or regulation, such provision shall be enforced to the maximum

extent permitted by law to effect the parties' fundamental intentions hereunder, and the remainder of this Release shall continue in full force and effect.

10. Any release and discharge of claims under the ADEA (the "ADEA Release") set forth in this Release shall not become effective and enforceable until the eighth (8th) day after the Senior Adviser's execution of this Release. The parties understand and agree that the Senior Adviser may revoke the ADEA Release after having executed this Release by informing the Company in writing, provided such writing is received by the Company's Director of Human Resources, 1166 Avenue of the Americas, Ninth Floor, New York, New York 10036 at or before 11:59:59 [REDACTED], on the seventh (7th) day after the Senior Adviser's execution of this Release.

IN WITNESS WHEREOF, the parties have executed this Release.

D. E. SHAW & CO., [REDACTED].

By: _____
Senior Vice President
Human Resources

SENIOR ADVISER

Signature: _____

Name: Lawrence Summers

Date this Release was signed by the Senior Adviser:
