

HARBINGER GROUP INC.  
Form SC 13D/A  
December 14, 2012

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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549

SCHEDULE 13D  
(Rule 13d-101)

INFORMATION TO BE INCLUDED IN STATEMENTS FILED PURSUANT  
TO RULE 13d-1(a) AND AMENDMENTS THERETO FILED PURSUANT TO  
RULE 13d-2(a)  
(Amendment No. 12)

HARBINGER GROUP INC.  
(Name of Issuer)

COMMON STOCK (PAR VALUE \$0.01 PER SHARE)  
(Title of Class of Securities)

41146A106  
(CUSIP Number)

PHILIP FALCONE  
450 PARK AVENUE, 30TH FLOOR  
NEW YORK, NEW YORK 10022  
(212) 339-5888  
(Name, Address and Telephone Number of  
Person Authorized to Receive Notices  
and Communications)

December 13, 2012  
(Date of Event which Requires Filing  
of This Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of Rule 13d-1(e), 13d-1(f) or 13d-1(g), check the following box

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See Rule 13d-7 for other parties to whom copies are to be sent.

\* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liabilities of that section of the Act but

shall be subject to all other provisions of the Act (however, see the Notes).



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1 NAME OF REPORTING PERSON

Harbinger Capital Partners Master Fund I, Ltd.

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a)   
(b)

3 SEC USE ONLY

4 SOURCE OF FUNDS

OO

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

Cayman Islands

7 SOLE VOTING POWER

NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH

0

8 SHARED VOTING POWER

BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH

95,932,068

9 SOLE DISPOSITIVE POWER

0

10 SHARED DISPOSITIVE POWER

95,932,068

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

95,932,068

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

50.9% (\*)

14 TYPE OF REPORTING PERSON

CO

(\*) See Item 5 for discussion of calculation of percentage ownership.

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1 NAME OF REPORTING PERSON

Harbinger Capital Partners LLC

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a)   
(b)

3 SEC USE ONLY

4 SOURCE OF FUNDS

AF

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7 SOLE VOTING POWER

NUMBER OF SHARES

0

BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH

8 SHARED VOTING POWER

95,932,068

9 SOLE DISPOSITIVE POWER

0

10 SHARED DISPOSITIVE POWER

95,932,068

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

95,932,068

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

50.9% (\*)

14 TYPE OF REPORTING PERSON

CO

(\*) See Item 5 for discussion of calculation of percentage ownership.

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1 NAME OF REPORTING PERSON

Harbinger Capital Partners Special Situations Fund, L.P.

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a)   
(b)

3 SEC USE ONLY

4 SOURCE OF FUNDS

OO

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7 SOLE VOTING POWER

NUMBER OF  
SHARES

0

BENEFICIALLY  
OWNED BY

8 SHARED VOTING POWER

EACH

21,493,161

REPORTING  
PERSON

9 SOLE DISPOSITIVE POWER

WITH

0

10 SHARED DISPOSITIVE POWER

21,493,161

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

21,493,161

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

11.4% (\*)

14 TYPE OF REPORTING PERSON

PN

(\*) See Item 5 for discussion of calculation of percentage ownership.

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1 NAME OF REPORTING PERSON

Harbinger Capital Partners Special Situations GP, LLC

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a)   
(b)

3 SEC USE ONLY

4 SOURCE OF FUNDS

AF

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7 SOLE VOTING POWER

NUMBER OF SHARES

0

BENEFICIALLY OWNED BY EACH REPORTING PERSON

8 SHARED VOTING POWER

21,493,161

9 SOLE DISPOSITIVE POWER

0

10 SHARED DISPOSITIVE POWER

21,493,161

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

21,493,161

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

11.4% (\*)

14 TYPE OF REPORTING PERSON

CO

(\*) See Item 5 for discussion of calculation of percentage ownership.

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1 NAME OF REPORTING PERSON

Global Opportunities Breakaway Ltd.

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a)   
(b)

3 SEC USE ONLY

4 SOURCE OF FUNDS

OO

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

Cayman Islands

7 SOLE VOTING POWER

NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH

0

8 SHARED VOTING POWER

12,434,660

9 SOLE DISPOSITIVE POWER

0

10 SHARED DISPOSITIVE POWER

12,434,660

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

12,434,660

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

6.6% (\*)

14 TYPE OF REPORTING PERSON

CO

(\*) See Item 5 for discussion of calculation of percentage ownership.

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1 NAME OF REPORTING PERSON

Harbinger Capital Partners II LP

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a)   
(b)

3 SEC USE ONLY

4 SOURCE OF FUNDS

AF

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7 SOLE VOTING POWER

NUMBER OF SHARES

0

BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH

8 SHARED VOTING POWER

12,434,660

9 SOLE DISPOSITIVE POWER

0

10 SHARED DISPOSITIVE POWER

12,434,660

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

12,434,660

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

6.6% (\*)

14 TYPE OF REPORTING PERSON

PN

(\*) See Item 5 for discussion of calculation of percentage ownership.

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1 NAME OF REPORTING PERSON

Harbinger Capital Partners II GP LLC

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a)

(b)

3 SEC USE ONLY

4 SOURCE OF FUNDS

AF

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7 SOLE VOTING POWER

NUMBER OF SHARES

0

BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH

8 SHARED VOTING POWER

12,434,660

9 SOLE DISPOSITIVE POWER

0

10 SHARED DISPOSITIVE POWER

12,434,660

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

12,434,660

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

6.6% (\*)

14 TYPE OF REPORTING PERSON

CO

(\*) See Item 5 for discussion of calculation of percentage ownership.

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1 NAME OF REPORTING PERSON

Harbinger Holdings, LLC

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a)

(b)

3 SEC USE ONLY

4 SOURCE OF FUNDS

AF

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7 SOLE VOTING POWER

NUMBER OF SHARES

0

BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH

8 SHARED VOTING POWER

117,425,229

9 SOLE DISPOSITIVE POWER

0

10 SHARED DISPOSITIVE POWER

117,425,229

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

117,425,229

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

62.3% (\*)

14 TYPE OF REPORTING PERSON

CO

(\*) See Item 5 for discussion of calculation of percentage ownership.

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1 NAME OF REPORTING PERSON

Philip Falcone

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a)

(b)

3 SEC USE ONLY

4 SOURCE OF FUNDS

AF

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

United States of America

7 SOLE VOTING POWER

NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH

0

8 SHARED VOTING POWER

129,859,889

9 SOLE DISPOSITIVE POWER

0

10 SHARED DISPOSITIVE POWER

129,859,889

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

129,859,889

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

68.9% (\*)

14 TYPE OF REPORTING PERSON

IN

(\*) See Item 5 for discussion of calculation of percentage ownership.

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Item 1. Security and Issuer.

This Amendment No. 12 to Schedule 13D (“Amendment No. 12”) is being filed by the undersigned to amend the Schedule 13D filed by the Reporting Persons on June 19, 2009, as amended by Amendment No. 1, filed on July 13, 2009, Amendment No. 2, filed on November 4, 2009, Amendment No. 3, filed on August 17, 2010, Amendment No. 4, filed on September 15, 2010, Amendment No. 5, filed on January 12, 2011, Amendment No. 6, filed on March 10, 2011, Amendment No. 7, filed on May 16, 2011, Amendment No. 8, filed on May 23, 2011, Amendment No. 9, filed on February 1, 2012, Amendment No. 10, filed on March 14, 2012 and Amendment No. 11, filed on June 14, 2012 (as amended, the “Schedule 13D”), with respect to the Common Stock, par value \$0.01 per share (the “Shares”), of Harbinger Group Inc. (the “Issuer”), whose principal executive offices are located at 450 Park Avenue, 27th Floor, New York, New York 10022.

Item 2. Identity and Background.

No material change.

Item 3. Source and Amount of Funds or Other Consideration.

No material change.

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Item 4. Purpose of Transaction.

Item 4 of the Schedule 13D is hereby amended by adding the following to the end of Item 4 of the Schedule 13D:

“On December 13, 2012, Harbinger Capital Partner Master Fund I, Ltd. (“Master Fund”), Harbinger Capital Partners Special Situations Fund, L.P. (“Special Situations”) and Global Opportunities Breakaway Ltd. (“Breakaway”, and together with Master Fund and Special Situations, the “Selling Stockholders”) entered into an underwriting agreement (the “Underwriting Agreement”) with Jefferies & Company, Inc., as representative of the underwriters listed therein (the “Underwriters”), with respect to the offering of 20,000,000 Shares by the Selling Shareholders, at a price to the public of \$7.50 per Share. The Selling Stockholders may also sell an aggregate of 3,000,000 additional Shares pursuant to an over-allotment option in favor of the Underwriters, which is exercisable at any time during the next 30 days. Reference is made to the registration statement on Form S-3 filed by the Issuer with the Securities and Exchange Commission (Registration No. 333-180070).

These Shares are registered pursuant to the registration rights agreement between the Issuer and the Selling Stockholders dated September 10, 2010, (as amended, the “Registration Rights Agreement”).

Concurrently with the execution of the Underwriting Agreement, the Selling Stockholders agreed to a lock-up agreement (a form of which is attached as Exhibit D hereto, the “Lock-up Agreement”) with the Underwriters. Pursuant to the Lock-up Agreement, the Selling Stockholders agreed that, for a period of 90 days from the public offering date set forth on the final prospectus, and subject to certain exceptions specified therein, they would not, directly or indirectly, (1) offer for sale, sell, pledge, or otherwise dispose of (or enter into any transaction or device that is designed to, or could be expected to, result in the disposition by any person at any time in the future of) any Shares (including, without limitation, Shares that may be deemed to be beneficially owned by the undersigned in accordance with the rules and regulations of the Securities and Exchange Commission (other than Shares deemed to be beneficially owned by the undersigned solely as a result of the undersigned being a member of a “group” as such term is defined in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended) and Shares that may be issued upon exercise of any options or warrants) or securities convertible into or exercisable or exchangeable for Shares (other than the Shares offered in the offering), (2) enter into any swap or other derivatives transaction that transfers to another, in whole or in part, any of the economic benefits or risks of ownership of Shares, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of Shares or other securities, in cash or otherwise, (3) make any demand for or exercise any right or cause to be filed a registration statement, including any amendments thereto, with respect to the registration of any Shares or securities convertible into or exercisable or exchangeable for Shares or any other securities of the Company or (4) publicly disclose the intention to do any of the foregoing, for a period commencing on the date hereof and ending on the 90th day from the public offering date set forth on the final prospectus. As set forth in the Lock-up Agreement, the lock-up period may be extended beyond the 90-day period under certain circumstances.

The foregoing description of the Underwriting Agreement, Registration Rights Agreement and Lock-up Agreement do not purport to be a complete description of the terms thereof and are qualified in their entirety by reference to the full text of the Underwriting Agreement, Registration Rights Agreement and Lock-up Agreement, which are filed as Exhibit B, Exhibit C and Exhibit D, respectively, to this Schedule 13D.”

Item 5. Interest in Securities of the Issuer.

No material change.

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Item 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer.

Item 6 of the Schedule 13D is hereby amended by adding the following as the last paragraph thereof (which modifies and supersedes any related prior disclosure):

“See “Item 4. Purpose of Transaction” above for a description of the Lock-Up Agreement and the Underwriting Agreement.”

Item 7. Material to be Filed as Exhibits.

Exhibit A: Joint Filing Agreement

Exhibit B: Underwriting Agreement (incorporated by reference to Exhibit 1.1 to the Issuer's Current Report on Form 8-K filed on December 14, 2012 with the Securities and Exchange Commission)

Exhibit C: Registration Rights Agreement (incorporated by reference to Exhibit 10.2 to the Issuer's Current Report on Form 8-K filed on September 14, 2010 with the Securities and Exchange Commission)

Exhibit D: Form of Lock-Up Agreement

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SIGNATURE

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

HARBINGER CAPITAL PARTNERS MASTER FUND  
I, LTD.

By: Harbinger Capital Partners  
LLC

By: Harbinger Holdings, LLC,  
Manager

By: /s/ Philip Falcone  
Name: Philip Falcone  
Title: Managing Member

HARBINGER CAPITAL PARTNERS LLC

By: Harbinger Holdings, LLC, Manager

By: /s/ Philip Falcone  
Name: Philip Falcone  
Title: Managing Member

HARBINGER CAPITAL PARTNERS SPECIAL  
SITUATIONS FUND, L.P.

By: Harbinger Capital Partners Special Situations GP,  
LLC

By: Harbinger Holdings, LLC, Managing Member

By: /s/ Philip Falcone  
Name: Philip Falcone  
Title: Managing Member

HARBINGER CAPITAL PARTNERS SPECIAL  
SITUATIONS GP, LLC

By: Harbinger Holdings, LLC, Managing Member

By: /s/ Philip Falcone  
Name: Philip Falcone  
Title: Managing Member

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GLOBAL OPPORTUNITIES BREAKAWAY LTD.

By: Harbinger Capital Partners II  
LP

By: Harbinger Capital Partners II  
GP LLC, General Partner

By: /s/ Philip Falcone  
Name: Philip Falcone  
Title: Managing Member

HARBINGER CAPITAL PARTNERS II LP

By: Harbinger Capital Partners II GP LLC, General  
Partner

By: /s/ Philip Falcone  
Name: Philip Falcone  
Title: Managing Member

HARBINGER CAPITAL PARTNERS II GP LLC

By: /s/ Philip Falcone  
Name: Philip Falcone  
Title: Managing Member

HARBINGER HOLDINGS, LLC

By: /s/ Philip Falcone  
Name: Philip Falcone  
Title: Managing Member

/s/ Philip Falcone  
Philip Falcone

December 14, 2012

Attention: Intentional misstatements or omissions of fact constitute federal violations (see 18 U.S.C. 1001).

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Exhibit A

JOINT FILING AGREEMENT

The undersigned hereby agree that this statement on Schedule 13D with respect to the Common Stock, par value \$0.01 per share of Harbinger Group Inc., is, and any amendments thereto signed by each of the undersigned shall be, filed on behalf of each of us pursuant to and in accordance with the provisions of Rule 13d-1(k) under the Securities Exchange Act of 1934.

HARBINGER CAPITAL PARTNERS MASTER FUND  
I, LTD.

By: Harbinger Capital Partners  
LLC

By: Harbinger Holdings, LLC,  
Manager

By: /s/ Philip Falcone  
Name: Philip Falcone  
Title: Managing Member

HARBINGER CAPITAL PARTNERS LLC

By: Harbinger Holdings, LLC, Manager

By: /s/ Philip Falcone  
Name: Philip Falcone  
Title: Managing Member

HARBINGER CAPITAL PARTNERS SPECIAL  
SITUATIONS FUND, L.P.

By: Harbinger Capital Partners Special Situations GP,  
LLC

By: Harbinger Holdings, LLC, Managing Member

By: /s/ Philip Falcone  
Name: Philip Falcone  
Title: Managing Member

HARBINGER CAPITAL PARTNERS SPECIAL  
SITUATIONS GP, LLC

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By: Harbinger Holdings, LLC, Managing Member

By: /s/ Philip Falcone  
Name: Philip Falcone  
Title: Managing Member

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GLOBAL OPPORTUNITIES BREAKAWAY LTD.

By: Harbinger Capital Partners II  
LP

By: Harbinger Capital Partners II  
GP LLC, General Partner

By: /s/ Philip Falcone  
Name: Philip Falcone  
Title: Managing Member

HARBINGER CAPITAL PARTNERS II LP

By: Harbinger Capital Partners II GP LLC, General  
Partner

By: /s/ Philip Falcone  
Name: Philip Falcone  
Title: Managing Member

HARBINGER CAPITAL PARTNERS II GP LLC

By: /s/ Philip Falcone  
Name: Philip Falcone  
Title: Managing Member

HARBINGER HOLDINGS, LLC

By: /s/ Philip Falcone  
Name: Philip Falcone  
Title: Managing Member

/s/ Philip Falcone  
Philip Falcone

December 14, 2012

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FORM OF LOCK-UP LETTER AGREEMENT

Jefferies & Company, Inc.  
As Representatives of the several  
Underwriters named in Schedule 1,  
c/o Jefferies & Company, Inc.  
520 Madison Avenue  
New York, New York 10019

Ladies and Gentlemen:

The undersigned understands that you and certain other firms (the “Underwriters”) propose to enter into an Underwriting Agreement (the “Underwriting Agreement”) providing for the purchase by the Underwriters of shares (the “Stock”) of Common Stock, par value \$0.01 per share (the “Common Stock”), of Harbinger Group Inc., a Delaware corporation (the “Company”), and that the Underwriters propose to reoffer the Stock to the public (the “Offering”).

In consideration of the execution of the Underwriting Agreement by the Underwriters, and for other good and valuable consideration, the undersigned hereby irrevocably agrees that, without the prior written consent of Jefferies & Company, Inc., on behalf of the Underwriters, the undersigned will not, directly or indirectly, (1) offer for sale, sell, pledge, or otherwise dispose of (or enter into any transaction or device that is designed to, or could be expected to, result in the disposition by any person at any time in the future of) any shares of Common Stock (including, without limitation, shares of Common Stock that may be deemed to be beneficially owned by the undersigned in accordance with the rules and regulations of the Securities and Exchange Commission (other than shares deemed to be beneficially owned by the undersigned solely as a result of the undersigned being a “group” as such term is defined in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”)) and shares of Common Stock that may be issued upon exercise of any options or warrants) or securities convertible into or exercisable or exchangeable for Common Stock (other than the Stock), (2) enter into any swap or other derivatives transaction that transfers to another, in whole or in part, any of the economic benefits or risks of ownership of shares of Common Stock, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of Common Stock or other securities, in cash or otherwise, (3) make any demand for or exercise any right or cause to be filed a registration statement, including any amendments thereto, with respect to the registration of any shares of Common Stock or securities convertible into or exercisable or exchangeable for Common Stock or any other securities of the Company or (4) publicly disclose the intention to do any of the foregoing, for a period commencing on the date hereof and ending on the 90th day after the date of the Prospectus relating to the Offering

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(such 90-day period, the “Lock-Up Period”). The foregoing sentence shall not apply to (a) bona fide gifts, sales or other dispositions of shares of any class of the Company’s capital stock, in each case that are made exclusively between and among the undersigned and members of the undersigned’s family, or affiliates of the undersigned, including its partners (if a partnership) or members (if a limited liability company) and entities controlled by the undersigned’s family or trusts or similar vehicles for the benefit of the undersigned or the undersigned’s family, (b) granting of a security interest in or, pledges of Common Stock or securities convertible into or exercisable or exchangeable for Common Stock to a lender or other financing source, (c) the existing pledge to MSD Capital, (d) the existing call option between Harbinger Capital Partners Master Fund I Ltd. and MSD Capital or (e) the surrender, withholding or settlement of shares of Common Stock to the Company to satisfy tax withholding or the exercise price with respect to any equity award granted under the Company’s equity compensation plans. It shall be a condition to any such transfer under clauses (a) and (b) that (i) any such transferee, donee or pledgee agrees to be bound by the terms of the Lock-Up Letter Agreement (including, without limitation, the restrictions set forth in the preceding sentence) to the same extent as if such transferee, donee or pledgee were a party hereto, (ii) no filing by any party (donor, donee, pledgee, transferor or transferee) under the Exchange Act, shall be required or shall be voluntarily made in connection with such transfer or distribution (other than a filing on a Form 13F or a filing on Form 5, Schedule 13D or Schedule 13G (or 13D-A or 13G-A) made after the expiration of the 90-day period referred to above), and (iii) each party (donor, donee, pledgee, transferor or transferee) shall not be required by law (including, without limitation, the disclosure requirements of the Securities Act of 1933, as amended, and the Exchange Act) to make, and shall agree to not voluntarily make, any public announcement of the transfer or disposition other than as permitted by clause (ii) above.

Notwithstanding the foregoing, if (1) during the last 17 days of the Lock-Up Period, the Company issues an earnings release or material news or a material event relating to the Company occurs or (2) prior to the expiration of the Lock-Up Period, the Company announces that it will release earnings results during the 16-day period beginning on the last day of the Lock-Up Period, then the restrictions imposed by this Lock-Up Letter Agreement shall continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the announcement of the material news or the occurrence of the material event, unless Jefferies & Company, Inc. waive such extension in writing except that such extension will not apply if, within three business days prior to the 15th calendar day before the last day of the Lock-Up Period, the Company delivers a certificate, signed by the Chief Financial Officer or Chief Executive Officer of the Company, certifying on behalf of the Company that (a) the Shares are “actively traded securities” (as defined in Regulation M), (b) the Company meets the applicable requirements of paragraph (a)(1) of Rule 139 under the Securities Act in the manner contemplated by FINRA Conduct Rule 2711(f)(4) and (c) the provisions of FINRA Conduct Rule 2711(f)(4) are not applicable to any research reports relating to the Company published or distributed by you during the 15 days before or after the last day of the Lock-up Period (before giving effect to such extension). The

undersigned hereby further agrees that, prior to engaging in any transaction or taking any other action that is subject to the terms of this Lock-Up Letter Agreement during the period from the date of this Lock-Up Letter Agreement to and including the 34th day following the expiration of the Lock-Up Period, it will give notice thereof to the Company and will not consummate such transaction or take any such action unless it has received written confirmation from the Company that the Lock-Up Period (as such may have been extended pursuant to this paragraph) has expired.

In furtherance of the foregoing, the Company and its transfer agent are hereby authorized to decline to make any transfer of securities if such transfer would constitute a violation or breach of this Lock-Up Letter Agreement.

It is understood that, if the Company notifies the Underwriters that it does not intend to proceed with the Offering, if the Underwriting Agreement does not become effective, or if the Underwriting Agreement (other than the provisions thereof which survive termination) shall terminate or be terminated prior to payment for and delivery of the Stock, the undersigned will be released from its obligations under this Lock-Up Letter Agreement.

The undersigned understands that the Company and the Underwriters will proceed with the Offering in reliance on this Lock-Up Letter Agreement.

Whether or not the Offering actually occurs depends on a number of factors, including market conditions. Any Offering will only be made pursuant to an Underwriting Agreement, the terms of which are subject to negotiation between the Company, the Selling Stockholders named therein and the Underwriters.

[Signature page follows]

The undersigned hereby represents and warrants that the undersigned has full power and authority to enter into this Lock-Up Letter Agreement. Any obligations of the undersigned shall be binding upon the heirs, personal representatives, successors and assigns of the undersigned.

Very truly yours,

By:

Name  
Title

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