
**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): May 2, 2006

THE HAIN CELESTIAL GROUP, INC.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

0-22818
(Commission File Number)

22-3240619
(I.R.S. Employer Identification No.)

58 South Service Road, Melville, NY 11747
(Address of principal executive offices)

Registrant's telephone number, including area code: (631) 730-2200

Not Applicable
(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))
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Item 1.01. Entry into a Material Definitive Agreement.

On May 2, 2006, The Hain Celestial Group, Inc. (“Hain” or the “Registrant”) completed a private placement of \$150 million aggregate principal amount of senior notes due 2016 (the “notes”). The notes bear interest at a fixed rate of 5.98% (subject to increase under certain circumstances).

On May 2, 2006, Hain entered into an amended and restated credit agreement with \$250 million in revolving commitments and an uncommitted \$100 million accordion feature, under which the facility may be increased to \$350 million. The maturity has also been extended from April 22, 2009 to May 2, 2011.

On May 3, 2006, Hain issued the press release attached hereto as Exhibit 99.1, which is incorporated herein by reference. The amended and restated credit agreement and the note purchase agreement governing the terms of the notes are attached hereto as Exhibits 10.1 and 10.2, respectively, and are incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits. The following exhibits are filed herewith:

<u>Exhibit No.</u>	<u>Description</u>
10.1	Amended and Restated Credit Agreement, dated as of May 2, 2006, by and among the Registrant, Bank of America, N.A., as Administrative Agent, Keybank National Association and Citibank, N.A., as Co-Syndication Agents, First Pioneer Farm Credit, ACA and HSBC Bank USA, N.A., as Co-Documentation Agents, North Fork Bank, as Managing Agent, and the lenders party thereto.
10.2	Note Purchase Agreement, dated as of May 2, 2006, by and among the Registrant and the several purchasers named therein.
99.1	Press Release dated May 3, 2006.

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.

Date: May 3, 2006

THE HAIN CELESTIAL GROUP, INC.
(Registrant)

By: /s/ Ira J. Lamel
Name: Ira J. Lamel
Title: Executive Vice President and
Chief Financial Officer

AMENDED AND RESTATED CREDIT AGREEMENT

Dated as of May 2, 2006

by and among

THE HAIN CELESTIAL GROUP, INC.

and

**BANK OF AMERICA, N.A.
as Administrative Agent,**

KEYBANK NATIONAL ASSOCIATION and

CITIBANK, N.A.

as Co-Syndication Agents,

FIRST PIONEER FARM CREDIT, ACA and

HSBC BANK USA, N.A.

as Co-Documentation Agents,

NORTH FORK BANK

as Managing Agent

and

THE LENDERS PARTY HERETO

BANC OF AMERICA SECURITIES, LLC,

as Sole Lead Arranger and Sole Bookrunner

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Schedule III	-	Indebtedness
Schedule IV	-	Existing Guarantees
Schedule V	-	Credit Arrangements
Schedule VI	-	Litigation
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EXHIBITS

Exhibit A	-	Form of Revolving Credit Note
Exhibit B	-	Form of Swingline Note
Exhibit C	-	Form of Guaranty
Exhibit D	-	Form of Reaffirmation of Guaranty
Exhibit E	-	Form of Assignment and Acceptance Agreement
Exhibit F	-	Form of Opinion of Counsel (Cahill Gordon & Reindel LLP)
Exhibit G	-	Form of U.S. Tax Compliance Certificate

AMENDED AND RESTATED CREDIT AGREEMENT dated as of May 2, 2006, by and among **THE HAIN CELESTIAL GROUP, INC.**, a Delaware corporation (the “Company”), the **LENDERS** which from time to time are parties to this Agreement (individually, a “Lender” and, collectively, the “Lenders”), **BANK OF AMERICA, N.A.**, a national banking association organized under the laws of the United States of America, as Administrative Agent (the “Administrative Agent”), **KEYBANK NATIONAL ASSOCIATION and CITIBANK, N.A.**, as Co-Syndication Agents (collectively, the “Co-Syndication Agents”), **FIRST PIONEER FARM CREDIT, ACA and HSBC BANK USA, N.A.**, as Co-Documentation Agents (collectively, the “Co-Documentation Agents”) and **NORTH FORK BANK**, as Managing Agent (the “Managing Agent”).

RECITALS

WHEREAS, the Company, the Administrative Agent and certain of the Lenders are party to the 2004 Credit Agreement (as defined below); and

WHEREAS, the parties hereto desire to amend in various respects and restate the 2004 Credit Agreement in its entirety;

NOW, THEREFORE, the parties hereto agree to amend and restate the 2004 Credit Agreement to provide in its entirety as follows:

The Company has requested the Lenders to extend credit from time to time and the Lenders are willing to extend such credit to the Company, subject to the terms and conditions hereinafter set forth.

Accordingly, the parties hereto agree as follows:

ARTICLE I. DEFINITIONS AND ACCOUNTING TERMS

Section 1.01 Definitions.

As used herein, the following terms shall have the following meanings:

“2004 Credit Agreement” means that certain Credit Agreement, dated April 22, 2004, by and among the Company, Fleet National Bank, as Administrative Agent, SunTrust Bank and Keybank National Association, as co-syndication agents, HSBC Bank USA and First Pioneer Farm Credit, ACA as co-documentation agents, and the Lenders party thereto (as such term is defined therein), as amended through the date hereof.

“Acceptable Acquisition” shall mean any acquisition (whether by merger or otherwise) by the Company or any Subsidiary of the Company of more than 50% of the outstanding capital stock, membership interests, partnership interests or other similar ownership interests of a Person which is engaged in a line of business similar to the business of the Company or such Subsidiary (or reasonable extensions thereof, including, without limitation natural or organic health or

beauty care businesses) or the purchase of all or substantially all of the assets owned by such Person or a line of business of such Person; provided that (a) with respect to such Person which is the subject of an acquisition, such acquisition has been (i) approved by the board of directors or other appropriate governing body of such Person or (ii) recommended for approval by such board of directors or governing body to the shareholders, members, partners, or other owners of such Person, as required under applicable law or by the certificate of incorporation and by-laws or other organizational documents of such Person and subsequently approved by the shareholders, members, partners, or other owners of such Person if such approval is required under applicable law or by the certificate of incorporation and by-laws or other organizational documents of such Person or (iii) otherwise agreed by all shareholders, members, partners or other owners of such Person; and (b) no acquisition shall be an Acceptable Acquisition if a Default or Event of Default shall have occurred and be continuing or would result after giving effect to such acquisition. With respect to any Acceptable Acquisition made by the Company that is structured as a merger, the Company shall be the surviving entity.

“Acquisition Debt” means any Debt incurred in connection with an Acceptable Acquisition.

“Additional Lender” shall mean any financial institution which becomes a Lender in accordance with Section 2.05(a) hereof.

“Adjusted Libor Loans” shall mean Loans at such time as they are made and/or being maintained at a rate of interest based upon Reserve Adjusted Libor.

“Administrative Agent” shall mean Bank of America, N.A. in its capacity as Administrative Agent for the Lenders under this Agreement or its successor Administrative Agent permitted pursuant to Section 9.08 hereof.

“Affiliate” shall mean, with respect to a specified Person, another Person which, directly or indirectly, controls or is controlled by or is under common control with such specified Person. For the purpose of this definition, “control” of a Person shall mean the power, direct or indirect, to direct or cause the direction of the management or policies of such Person whether through the ownership of voting securities, by contract or otherwise; provided that, in any event, any Person who owns directly or indirectly 10% or more of the securities having ordinary voting power for the election of directors or other governing body of a corporation or 10% or more of the partnership or other ownership interests of any Person (other than as a limited partner of such other Person) will be deemed to control such corporation or other Person.

“Agents” shall mean, collectively, the Administrative Agent, the Co-Syndication Agents and the Co-Documentation Agents, and each is individually an “Agent.”

“Aggregate Letters of Credit Outstandings” shall mean, on the date of determination, the sum of (a) the aggregate maximum stated amount at such time which is available or available in the future to be drawn under all outstanding Letters of Credit and (b) the aggregate amount of all payments on account of drawings under Letters of Credit made by the Issuing Lender on behalf of the Lenders under any Letter of Credit that has not been reimbursed by the Company.

“Aggregate Outstandings” shall mean, on the date of determination, the sum of (a) the Aggregate Letters of Credit Outstandings at such time, (b) the aggregate outstanding principal

amount of all Revolving Credit Loans at such time and (c) the aggregate outstanding principal amount of all Swingline Loans at such time.

“Agreement” shall mean this Amended and Restated Credit Agreement dated as of the date hereof, as it may hereafter be amended, restated, supplemented or otherwise modified from time to time.

“Annual SEC Report” shall mean each Annual Report on Form 10-K filed by the Company with the SEC.

“Approved Fund” shall mean any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“Assignment and Acceptance Agreement” shall mean an Assignment and Acceptance Agreement entered into by a Lender and an assignee and accepted by the Administrative Agent and, so long as no Event of Default shall have occurred and be continuing, the Company (such acceptance by the Company not to be unreasonably withheld or delayed), substantially in the form attached hereto as Exhibit E or any other form approved by the Administrative Agent.

“Auditor” shall have the meaning set forth in Section 6.03(a) hereof.

“Bank of America” shall mean Bank of America, N.A., a national banking association organized under the laws of the United States.

“Base Rate” shall mean, for any day, a fluctuating rate per annum equal to the higher of: (a) 0.50% per annum plus the Federal Funds Rate and (b) the Prime Rate, in each case as then in effect.

“Base Rate Loans” shall mean Loans at such time as they are being made and/or maintained at a rate of interest based upon the Base Rate.

“BBA LIBOR” means the British Bankers Association LIBOR Rate.

“Borrowing Date” shall mean, with respect to any Loan, the date specified in any notice given pursuant to Section 2.01 hereof on which such Loan is requested by the Company.

“Business Day” shall mean (a) any day not a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to close, and (b) as it relates to any payment, determination, funding or notice to be made or given in connection with any Adjusted Libor Loan, any day specified in clause (a) on which trading is carried on by and between banks in Dollar deposits in the London interbank eurodollar market.

“Capital Lease” shall mean, with respect to any Person, as of the date of determination any lease the obligations of which are required to be capitalized on the balance sheet of such Person in accordance with Generally Accepted Accounting Principles applied on a consistent basis.

“Cash Collateral” shall mean a deposit by the Company made in immediately available funds to a cash collateral account at the Administrative Agent and the taking of all action required to provide the Administrative Agent, for the ratable benefit of the Lenders, a first priority perfected security interest in such deposit.

“Celestial” shall mean Celestial Seasonings, Inc., a Delaware corporation.

“Change of Control” shall mean any event which results in (i) any Person, or two or more Persons acting in concert, acquiring beneficial ownership (within the meaning of Rules 13d-3 and 13d-5 of the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended), directly or indirectly, of securities of the Company (or other securities convertible into such securities) representing 50% or more of the combined voting power of all securities of the Company entitled to vote in the election of directors; or (ii) the individuals who, as of the date hereof, constitute the Board of Directors of the Company, together with those who first become directors subsequent to such date, provided the recommendation, election or nomination for election to the Board of Directors of such subsequent directors was approved by a vote of at least a majority of the directors then still in office who were either directors as of the date hereof or whose recommendation, election or nomination for election was previously so approved, ceasing for any reason to constitute a majority of the members of the Board of Directors of the Company.

“Chief Financial Officer” shall mean the Chief Financial Officer of the Company or, in the event no such officership exists, the Vice President of Finance of the Company.

“Closing Date” shall mean May 2, 2006.

“Co-Documentation Agents” shall mean First Pioneer Farm Credit, ACA and HSBC Bank USA, N.A., in their respective capacities as Co-Documentation Agents for the Lenders under this Agreement or any successor Co-Documentation Agent permitted pursuant to Section 9.08 hereof.

“Co-Syndication Agents” shall mean KeyBank National Association and Citibank, N.A., in their respective capacities as Co-Syndication Agents for the Lenders under this Agreement or any successor Co-Syndication Agent permitted pursuant to Section 9.08 hereof.

“Code” shall mean the Internal Revenue Code of 1986, and the regulations promulgated thereunder, each as amended from time to time.

“Commercial Letter of Credit” shall mean any Sight Letter of Credit issued for the account of a Person.

“Commitment Proportion” shall mean, with respect to each Lender at the time of determination, the ratio, expressed as a percentage, (a) which such Lender’s Revolving Credit Commitment bears to the Total Commitment or (b) if the Revolving Credit Commitments have expired or have been terminated, which such Lender’s Loans bear to the principal balance of the Loans then outstanding, at such time.

“Commitments” shall mean, collectively, the Revolving Credit Commitments and the Swingline Commitment.

“Company” shall have the meaning set forth in the preamble hereto.

“Consolidated Assets” shall mean, on the date of determination, total assets of the Company and its Subsidiaries on a consolidated basis, as determined in accordance with Generally Accepted Accounting Principles applied on a consistent basis.

“Consolidated EBITDA” shall mean, for the Company and its Subsidiaries, for any period, Consolidated Net Income (Net Loss) for such period, plus, to the extent deducted in computing such Consolidated Net Income and without duplication, (a) depreciation, depletion, if any, and amortization expense for such period, (b) Consolidated Interest Expense for such period, (c) income tax expense for such period, (d) other non cash charges for such period, (e) reasonable and customary acquisition or merger charges, restructuring charges that are both non cash and non-recurring and impairment of assets write-offs that are both non cash and non-recurring, (f) reasonable and customary charges which arise from the existence and subsequent write-off of duplicative facilities related directly an acquisition consummated by the Company or any Subsidiaries, and (g) cumulative non cash change in accounting effects or non cash extraordinary items, and minus the sum of (y) all extraordinary or unusual gains, and (z) all interest income all as determined in accordance with Generally Accepted Accounting Principles. For purposes of calculating Consolidated EBITDA for any period of four consecutive quarters, if during such period the Company or any Subsidiary shall have acquired or disposed of any Person or acquired or disposed of all or substantially all of the operating assets of any Person, Consolidated EBITDA for such period shall be calculated on a pro forma basis. For purposes of this definition, “pro forma basis” shall mean, with respect to any determination for any period, that such determination shall be made giving pro forma effect to each acquisition or disposition consummated during such period (including any incurrence, assumption, refinancing or repayment of Indebtedness), as if such acquisition or disposition and related transactions had been consummated on the first day of such period, in each case based on historical results accounted for in accordance with Generally Accepted Accounting Principles.

“Consolidated Interest Expense” shall mean, on the date of determination, the sum of all interest expense on Indebtedness of the Company and its Subsidiaries on a consolidated basis, determined in accordance with Generally Accepted Accounting Principles applied on a consistent basis. Consolidated Interest Expense shall be calculated with respect to the Company and its Subsidiaries on a consolidated basis and shall be calculated (without duplication) over the four fiscal quarters immediately preceding the date of calculation thereof.

“Consolidated Maintenance Capital Expenditures” shall mean, on the date of determination, the sum of expenditures by the Company and its Subsidiaries, on a consolidated basis, by the expenditure of cash or the incurrence of Indebtedness, with respect to the replacement, repair, maintenance and upkeep of any fixed or capital assets (to the extent capitalized on the financial statements of the Company), in accordance with Generally Accepted Accounting Principles applied on a consistent basis. Consolidated Maintenance Capital Expenditures shall be calculated (without duplication) over the four fiscal quarters immediately preceding the date of calculation thereof.

“Consolidated Net Income (Net Loss)” shall mean, for any period, the net income (or net loss) of the Company and its Subsidiaries on a consolidated basis for such period determined in accordance with Generally Accepted Accounting Principles applied on a consistent basis; provided that there shall be excluded therefrom the income (or deficit) of any Person (other than a Subsidiary that would be included in the consolidated financial statements of the Company and its Subsidiaries in accordance with Generally Accepted Accounting Principles) in which the Company or any of its Subsidiaries has an ownership interest (e.g. a joint venture), except to the extent that any such income has been actually received by the Company or any of its Subsidiaries in the form of dividends or similar distributions.

“Consolidated Net Worth” shall mean, on the date of determination, the consolidated stockholder’s equity of the Company and its Subsidiaries, as determined in accordance with Generally Accepted Accounting Principles applied on a consistent basis.

“Consolidated Total Funded Debt” shall mean, on the date of determination, the sum of all Indebtedness of the Company and its Subsidiaries, on a consolidated basis, for borrowed money including the current portion thereof and including obligations with respect to Capital Leases, determined in accordance with Generally Accepted Accounting Principles applied on a consistent basis.

“Current SEC Report” shall mean the most recently filed Annual SEC Report or Quarterly SEC Report.

“Default” shall mean any condition or event which upon notice, lapse of time or both would constitute an Event of Default.

“Dollar” and the symbol “\$” shall mean the lawful currency of the United States of America.

“Domestic Subsidiary” shall mean any Subsidiary of the Company organized under the laws of any state of the United States of America.

“Eligible Investments” shall mean (a) direct obligations of the United States or any governmental agency thereof which are fully guaranteed by the United States, provided that such obligations mature within one year from the date of acquisition thereof; or (b) Dollar denominated certificates of time deposit maturing within one year issued by any bank organized and existing under the laws of the United States or any state thereof and having aggregate capital and surplus in excess of \$1,000,000,000; or (c) money market mutual funds having assets in excess of \$2,500,000,000; or (d) commercial paper rated not less than P-1 or A-1 or their equivalent by Moody’s Investors Service, Inc. or Standard & Poor’s Ratings Group, respectively; or (e) tax exempt securities of a U.S. issuer rated A or better by Standard and Poor’s Ratings Group or rated A-2 or better by Moody’s Investors Service, Inc.; or (f) common stock issued by any corporation organized under the federal laws of the United States or any state thereof (other than the Company) which stock is traded on any U.S. national securities exchange or quoted on NASDAQ, provided that, (i) at the time of purchase such common stock has a minimum share price of at least \$2.00 per share, (ii) if any Loans are outstanding at the time of purchase, such corporation is engaged in a similar line of business as the Company and its Subsidiaries, and (iii)

the aggregate of all such purchases, determined in each instance at the time of purchase, of the common stock held by the Company and its Subsidiaries shall not exceed \$20,000,000.

“Environmental Law” shall mean any applicable law, ordinance, rule or regulation of any Governmental Authority relating to pollution or protection of the environment including without limitation, those relating to the use, handling, transportation, treatment, storage, disposal, release or discharge of Hazardous Materials, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), and the rules and regulations promulgated pursuant thereto.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time.

“ERISA Affiliate” shall mean each person (as defined in Section 3(9) of ERISA) which together with the Company or any Affiliate of the Company would be deemed to be a member of the same “controlled group” within the meaning of Section 414(b), (c), (m) or (o) of the Code.

“Eurocurrency Reserve Requirement” shall mean a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate (without duplication) of the rates (expressed as a decimal) of reserve requirements in effect on such day (including, without limitation, basic, supplemental, marginal and emergency reserves, under any regulations of the Board of Governors of the Federal Reserve System or any other governmental authority having jurisdiction with respect thereto) as from time to time in effect, dealing with reserve requirements prescribed for eurocurrency funding (currently referred to as “eurocurrency liabilities” in Regulation D) maintained by any Lender.

“Event of Default” shall have the meaning set forth in Article VIII.

“Excluded Subsidiary” shall mean any Subsidiary of the Company which as of the last day of the then most recent fiscal quarter ended has total assets of less than \$10,000 and total revenues for the then immediately preceding four fiscal quarters of less than \$10,000.

“Federal Funds Rate” shall mean, for any day, the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal fund brokers on such day, as published on the next succeeding Business Day by the Federal Reserve Bank of New York; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to Bank of America on such day on such transactions as determined by the Administrative Agent.

“Fund” shall mean any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of business.

“Generally Accepted Accounting Principles” shall mean those generally accepted accounting principles in the United States, as in effect from time to time.

“Governmental Authority” shall mean any nation or government, any state, province, city or municipal entity or other political subdivision thereof, and any governmental, executive, legislative, judicial, administrative or regulatory agency, department, authority, instrumentality, commission, board or similar body, whether federal, state, provincial, territorial, local or foreign.

“Guarantors” shall mean, collectively, Celestial, Acirca, Inc. a Delaware corporation, Arrowhead Mills, Inc., a Delaware corporation, Hain-Yves, Inc., a Delaware corporation, Westbrae Natural, Inc., a Delaware corporation, Hain Pure Food Co., Inc., a California corporation, Natural Nutrition Group, Inc., a Delaware corporation, Little Bear Organic Foods, Inc., a California corporation, Health Valley Company, a Delaware corporation, AMI Operating, Inc., a Texas corporation, Dana Alexander, Inc., a New York corporation, Westbrae Natural Foods, Inc., a California corporation, Deboles Nutritional Foods, Inc., a New York corporation, Jason Natural Products, Inc., a California corporation, Zia Cosmetics, Inc., a California corporation, Spectrum Organic Products, LLC, a California limited liability company, Queen Acquisition Corp., a Delaware corporation, and each other Domestic Subsidiary which, from time to time hereafter, is required to execute a Guaranty or a Reaffirmation of Guaranty in accordance with Section 6.12 hereof; provided that such Domestic Subsidiary’s status as a Guarantor shall be effective as of the date of such execution.

“Guaranty” shall mean the Guaranty in the form attached hereto as Exhibit C to be executed and delivered by any Domestic Subsidiaries required to deliver a Guaranty pursuant to Section 6.12 hereof, as the same may hereafter be amended, restated, supplemented or otherwise modified from time to time.

“Hazardous Materials” shall mean any explosives, radioactive materials, or other materials, wastes, substances, or chemicals regulated as toxic or hazardous or as a pollutant, contaminant or waste under any applicable Environmental Law.

“Hedging Agreement” shall mean any interest rate swap, collar, cap, floor or forward rate agreement or other agreement entered into by the Company and any Lender, in accordance with this Agreement, in connection with the hedging of interest rate risk exposure of the Company and any confirming letter executed pursuant to such agreement, all as amended, supplemented, restated or otherwise modified from time to time.

“Increased Commitment Date” shall have the meaning set forth in Section 2.05 hereof.

“Increasing Lender” shall mean any Lender which increases its Revolving Credit Commitment in accordance with Section 2.05(a) hereof.

“Indebtedness” shall mean, without duplication, as to any Person or Persons, (a) indebtedness for borrowed money; (b) indebtedness for the deferred purchase price of property or services; (c) indebtedness evidenced by bonds, debentures, notes or other similar instruments; (d) obligations and liabilities secured by a Lien upon property owned by such Person, whether or not owing by such Person and even though such Person has not assumed or become liable for the payment thereof; (e) obligations or liabilities created or arising under any conditional sales

contract or other title retention agreement with respect to property used and/or acquired by such Person; (f) the capitalized portion of obligations of such Person as lessee under Capital Leases; (g) net liabilities of such Person under Hedging Agreements and foreign currency exchange agreements, as calculated in accordance with accepted practice; (h) all obligations, contingent or otherwise, of such Person as an account party or applicant in respect of letters of credit created for the account or upon the application of such Person; (i) all obligations of such Person, contingent or otherwise, to purchase, redeem, retire or otherwise acquire for value any equity interest in any Person; (j) obligations and liabilities of the types described in clause (a) through (i) above, directly or indirectly, guaranteed by such Person; and (k) all liabilities which would be reflected on a balance sheet of such Person, prepared in accordance with Generally Accepted Accounting Principles.

“Intellectual Property” shall mean all of the trademarks (whether or not registered) and trademark registrations and applications, patent and patent applications, copyrights and copyright applications, service marks, service mark registrations and applications, trade dress, and trade and product names owned or licensed by the Company and its Subsidiaries.

“Interest Expense” shall mean, on the date of determination, the sum of all interest expense on Indebtedness of any Person, determined in accordance with Generally Accepted Accounting Principles applied on a consistent basis. Interest Expense shall be calculated with respect to such Person (without duplication) over the four fiscal quarters immediately preceding the date of calculation thereof.

“Interest Payment Date” shall mean (a) as to any Base Rate Loan, the last day of each calendar month during the term hereof; (b) as to any Adjusted Libor Loan, the last day of the Interest Period applicable thereto, provided, however, that if any Interest Period for an Adjusted Libor Loan exceeds three months, the date that falls three months after the beginning of such Interest Period shall also be an Interest Payment Date; and (c) as to any Loan, on the date such Loan is paid in full or in part.

“Interest Period” shall mean with respect to any Adjusted Libor Loan:

(a) initially, the period commencing on the date such Adjusted Libor Loan is made and ending one, two, three or six months thereafter, as selected by the Company in its notice of borrowing or in its notice of conversion from a Base Rate Loan, in each case, in accordance with the terms of Articles II and III hereof; and

(b) thereafter, each period commencing on the last day of the next preceding Interest Period applicable to such Adjusted Libor Loan and ending one, two, three or six months thereafter, as selected by the Company by irrevocable written notice to the Administrative Agent not later than 11:00 a.m. New York, New York time three (3) Business Days prior to the last day of the then current Interest Period with respect to such Adjusted Libor Loan and the Administrative Agent shall promptly notify each of the Lenders of such notice; provided, however, that all of the foregoing provisions relating to Interest Periods are subject to the following:

- (i) if any Interest Period would otherwise end on a day which is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such Interest Period into another calendar month in which event such Interest Period shall end on the immediately preceding Business Day;
- (ii) if the Company shall fail to give notice as provided in clause (b) above, the Company shall be deemed to have requested conversion of the affected Adjusted Libor Loan to a Base Rate Loan on the last day of the then current Interest Period with respect thereto;
- (iii) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of a calendar month;
- (iv) no more than six (6) Interest Periods may exist at any one time; and
- (v) the Company shall select Interest Periods so as not to require a payment or prepayment of any Adjusted Libor Loan during an Interest Period for such Adjusted Libor Loan.

“Interest Rate Margin” shall mean (a) with respect to each Adjusted Libor Loan, the percentage set forth below under the heading “LIBOR Margin” opposite the applicable ratio and (b) with respect to each Base Rate Loan, the percentage set forth below under the heading “Base Rate Margin” opposite the applicable ratio.

Consolidated Total Funded Debt to Consolidated EBITDA	LIBOR Margin (360 Day Basis)	Base Rate Margin
Greater than or equal to 3.00:1.00	1.25%	0.0%
Greater than or equal to 2.50:1.00 and less than 3.00:1.00	1.00%	0.0%
Greater than or equal to 2.00:1.00 and less than 2.50:1.00	0.875%	0.0%
Greater than or equal to 1.50:1.00 and less than 2.00:1.00	0.75%	0.0%
Greater than or equal to 1.00:1.00 and less than 1.50:1.00	0.625%	0.0%
Less than 1.00:1.00	0.50%	0.0%

Notwithstanding the foregoing, during the period commencing on the Closing Date and ending on the tenth (10th) Business Day following the date of delivery of the financial statements to the Administrative Agent for the fiscal quarter ended March 31, 2006 (a) the Interest Rate Margin with respect to each Adjusted Libor Loan shall be 0.75% per annum, and (b) the Interest Rate Margin with respect to each Base Rate Loan shall be 0.0% per annum. The Interest Rate Margin will be set or reset quarterly with respect to each Loan on the date which is ten (10) Business Days following the date of receipt by the Administrative Agent of the financial statements referred to in Section 6.03(a) or Section 6.03(b) hereof, as applicable, together with a certificate of the Chief Financial Officer of the Company certifying the ratio of Consolidated Total Funded Debt to Consolidated EBITDA and setting forth the calculation thereof in detail; provided, however, if any such financial statement and certificate are not received by the Administrative Agent within the time period required pursuant to Section 6.03(a) or Section 6.03(b) hereof, as the case may be, the Interest Rate Margin will be set or reset, unless the rate of interest specified in Section 3.01(c) hereof is in effect solely due to the failure of the Company to comply with Section 6.03(a) or 6.03(b) hereof, to a rate determined based on a ratio of Consolidated Total Funded Debt to Consolidated EBITDA of greater than or equal to 3.00:1.00 from the date such financial statement and certificate were due until the date which is ten (10) Business Days

following the receipt by the Administrative Agent of such financial statement and certificate, and provided, further, that the Lenders shall not in any way be deemed to have waived any Default or Event of Default, including, without limitation, an Event of Default resulting from the failure of the Company to comply with Section 7.13 of this Agreement, or any rights or remedies hereunder or under any other Loan Document in connection with the foregoing proviso. During the occurrence and continuance of an Event of Default, no downward adjustment, and only upward adjustments, shall be made to the Interest Rate Margin.

“Investor’s Agreement” shall have the meaning ascribed thereto in the Securities Purchase Agreement.

“IP Subsidiary” shall mean any direct or indirect wholly-owned Non-Domestic Subsidiary formed in accordance with Section 6.12 hereof for the purpose of owning certain Intellectual Property.

“Issuing Lender” shall mean the Administrative Agent, in its capacity as the issuer of Letters of Credit hereunder or its successor Issuing Lender permitted pursuant to Section 2.03(e) hereof.

“Lead Arranger” shall mean Banc of America Securities LLC.

“Lenders” shall have the meaning set forth in the preamble hereto and shall include the Swingline Lender and the Issuing Lender.

“Lending Office” shall mean, for each Lender, the office specified under such Lender’s name on the signature pages hereof with respect to each Type of Loan, or such other office as such Lender may designate in writing from time to time to the Company and the Administrative Agent with respect to such Type of Loan.

“Letter of Credit” shall mean any letter of credit issued by the Issuing Lender for the account of the Company pursuant to the terms of this Agreement.

“Lien” shall mean any mortgage, pledge, security interest, hypothecation, assignment, deposit arrangement, encumbrance, or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement, any Capital Lease and any financing lease having substantially the same economic effect as any of the foregoing).

“Loans” shall mean, collectively, the Revolving Credit Loans and the Swingline Loans.

“Loan Documents” shall mean, collectively, this Agreement, the Notes, the Guaranties, the Reaffirmation of Guaranty, any Hedging Agreement (but only to the extent that such Hedging Agreement relates to the Company’s hedging of interest rate exposure under this Agreement) and each other agreement executed in connection with the transactions contemplated hereby or thereby, as each of the same may hereafter be amended, restated, supplemented or otherwise modified from time to time.

“Managing Agent” shall mean North Fork Bank.

“Material Adverse Effect” shall mean a material adverse effect upon (a) the business, operations, property or condition (financial or otherwise) of the Company and its Subsidiaries taken as a whole, or (b) the ability of the Company or any Guarantor to perform any of its obligations under any Loan Document to which it is a party.

“Net Direct Contributions” shall mean, with respect to each reporting unit, gross revenues less direct cost of sales and direct advertising and promotional costs.

“Net Income (Net Loss)” shall mean, for any period, the net income (or net loss) of any Person for such period determined in accordance with Generally Accepted Accounting Principles applied on a consistent basis; provided that there shall be excluded therefrom the income (or deficit) of any other Person (other than a Subsidiary) in which such Person or any Subsidiary of such Person has an ownership interest, except to the extent that any such income has been actually received by such Person or such Subsidiary in the form of dividends or similar distributions.

“Non-Domestic Subsidiary” shall mean any Subsidiary of the Company not organized under the laws of any state of the United States of America.

“Non-Excluded Taxes” shall have the meaning set forth in Section 3.10 hereof.

“Notes” shall mean, collectively, the Revolving Credit Notes and the Swingline Note.

“Obligations” shall mean all obligations, liabilities and indebtedness of the Company and any of its Subsidiaries to the Lenders, the Issuing Lender and the Administrative Agent, whether now existing or hereafter created, absolute or contingent, direct or indirect, due or not, whether created directly or acquired by assignment or otherwise, arising under this Agreement, the Notes or any other Loan Document including, without limitation, all obligations, liabilities and indebtedness of the Company with respect to the principal of and interest on the Loans (including any interest that accrues after the filing of any petition in bankruptcy or the commencement of any insolvency, reorganization or like proceeding relating to the Company, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding), reimbursement of Letters of Credit, obligations under any Hedging Agreement, and all fees, costs, expenses and indemnity obligations of the Company and any of its Subsidiaries hereunder or under any other Loan Document (including all fees and expenses of the Administrative Agent and any Lender incurred pursuant to this Agreement or any other Loan Document).

“Participant” shall have the meaning set forth in Section 10.05(b) hereof.

“Payment Office” shall mean the Administrative Agent’s office located at 300 Broad Hollow Road, Melville, New York 11747, or such other office as the Administrative Agent may designate from time to time in writing.

“PBGC” shall mean the Pension Benefit Guaranty Corporation established pursuant to Section 4002 of ERISA, or any successor thereto.

“Permitted Liens” shall mean the Liens specified in clauses (a) through (k) of Section 7.02 hereof.

“Person” shall mean any natural person, corporation, limited liability company, limited liability partnership, business trust, joint venture, association, company, partnership, unincorporated trade or business enterprise or Governmental Authority.

“Plan” shall mean any multi-employer or single-employer plan defined in Section 4001 of ERISA, which covers, or at any time during the five calendar years preceding the date of this Agreement covered, employees of the Company, any Guarantor or an ERISA Affiliate on account of such employees’ employment by the Company, any Guarantor or an ERISA Affiliate.

“Prime Rate” shall mean the variable per annum rate of interest announced from time to time by Bank of America as its “prime rate.” The “prime rate” is a rate set by Bank of America based upon various factors including Bank of America’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above or below such announced rate. Any change in such rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change.

“Private Placement Notes” shall mean the senior notes due 2016 of the Company issued pursuant to a Note Purchase Agreement dated as of May 2, 2006, by and among the Company and the purchasers party thereto, as amended supplemented or otherwise modified, as such notes may be refinanced, renewed or extended, provided that the principal amount of such notes and the interest rate thereon shall not be increased.

“Purchasing Lender” shall have the meaning set forth in Section 10.05(c) hereof.

“Quarterly SEC Report” shall mean each quarterly report on Form 10-Q filed by the Company with the SEC.

“Reaffirmation of Guaranty” shall mean, the Reaffirmation of Guaranty, dated as of the Closing Date, executed by each person that executed a Guaranty or Reaffirmation of Guaranty in connection with the 2004 Credit Agreement.

“Regulation D” shall mean Regulation D of the Board of Governors of the Federal Reserve System as the same may be amended or supplemented from time to time.

“Reportable Event” shall mean an event described in Section 4043(c) of ERISA with respect to a Plan as to which the 30 day notice requirement has not been waived by the PBGC.

“Required Lenders” shall mean Lenders owed at least fifty-one percent (51%) of the sum of the aggregate unpaid principal amount of the Revolving Credit Loans or, if no Revolving Credit Loans are outstanding, Lenders having, in the aggregate, at least fifty-one percent (51%) of the Total Commitments.

“Reserve Adjusted Libor” shall mean, with respect to the Interest Period pertaining to an Adjusted Libor Loan, a rate per annum equal to the product of (a) the annual rate of interest at which Dollar deposits of an amount equal to the amount of the portion of the Adjusted Libor Loan allocable to the entity which is the Administrative Agent and for a period of time equal to the Interest Period applicable thereto, as published by Reuters (or other commercially available

source providing quotations of BBA LIBOR as selected by the Administrative Agent from time to time) at approximately 11:00 a.m. London time two (2) London Banking Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period), as adjusted from time to time in the Administrative Agent's sole discretion for reserve requirements, deposit insurance assessment rates and other regulatory costs, multiplied by (b) the Eurocurrency Reserve Requirement. If such rate is not available at such time for any reason, then the rate for that interest period will be determined by such alternate method as reasonably selected by the Administrative Agent. A "London Banking Day" is a day on which banks in London are open for business and dealing in offshore dollars.

"Revolving Credit Commitment" shall mean, with respect to each Lender, the obligation of such Lender to make Revolving Credit Loans to the Company and to acquire participations in Letters of Credit in an aggregate amount not to exceed the amount set forth opposite such Lender's name on the signature pages hereof under the caption Revolving Credit Commitment, as such amounts may be adjusted in accordance with the terms of this Agreement.

"Revolving Credit Commitment Period" shall mean the period from and including the Closing Date to, but not including, the Revolving Credit Commitment Termination Date or such earlier date as the Revolving Credit Commitments shall terminate as provided herein.

"Revolving Credit Commitment Termination Date" shall mean May 2, 2011.

"Revolving Credit Loans" shall have the meaning set forth in Section 2.01(a) hereof.

"Revolving Credit Notes" shall have the meaning set forth in Section 2.02 hereof.

"SEC" shall mean the U.S. Securities and Exchange Commission.

"Securities Purchase Agreement" shall mean the Securities Purchase Agreement, dated August 3, 2005, among the Company, YHS and YHSM.

"Sight Letter of Credit" shall mean a Letter of Credit wherein a draft is drawn at sight (i.e. drawn payable upon presentment).

"Solvent" shall mean with respect to any Person as of the date of determination thereof that (a) the amount of the "present fair saleable value" of the assets of such Person will, as of such date, exceed the amount of all "liabilities of such Person, contingent or otherwise," as of such date, as such quoted terms are determined in accordance with applicable federal and state laws governing determinations of the insolvency of debtors, (b) the present fair saleable value of the assets of such Person will, as of such date, be greater than the amount that will be required on its debts as such debts become absolute and matured, (c) such Person will not have, as of such date, an unreasonably small amount of capital with which to conduct its business, and (d) such Person will be able to pay its debts as they mature in each case after giving effect to any right of indemnification and contribution of such Person from or to any Affiliate.

"Standby LC Disbursement" shall mean a payment made by the Issuing Lender pursuant to a Standby Letter of Credit.

“Standby LC Exposure” shall mean, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Standby Letters of Credit at such time, plus (b) the aggregate amount of all Standby LC Disbursements that have not yet been reimbursed by or on behalf of the Company at such time.

“Standby LC Fee” shall mean the percentage set forth below opposite the applicable ratio:

Consolidated Total Funded Debt to Consolidated EBITDA	Standby LC Fee (360 Day Basis)
Greater than or equal to 3.00:1.00	1.25%
Greater than or equal to 2.50:1.00 and less than 3.00:1.00	1.00%
Greater than or equal to 2.00:1.00 and less than 2.50:1.00	0.875%
Greater than or equal to 1.50:1.00 and less than 2.00:1.00	0.75%
Greater than or equal to 1.00:1.00 and less than 1.50:1.00	0.625%
Less than 1.00:1.00	0.50%

Notwithstanding the foregoing, during the period commencing on the Closing Date and ending on the tenth (10th) Business Day following the date of delivery of the financial statements to the Administrative Agent for the fiscal quarter ended March 31, 2006, the Standby LC Fee shall be 0.75% per annum. The Standby LC Fee will be set or reset quarterly on the date which is ten (10) Business Days following the date of receipt by the Administrative Agent of the financial statements referred to in Section 6.03(a) or Section 6.03(b) hereof, as applicable, together with a certificate of the Chief Financial Officer of the Company certifying the ratio of Consolidated Total Funded Debt to Consolidated EBITDA and setting forth the calculation thereof in detail; provided, however, if any such financial statement and certificate are not received by the Administrative Agent within the time period required pursuant to Section 6.03(a) or Section 6.03(b) hereof, as the case may be, the Standby LC Fee will be set or reset, unless the rate of interest specified in Section 3.01(c) hereof is in effect solely due to the failure of the Company to comply with Section 6.03(a) or 6.03(b) hereof, based on a ratio of Consolidated Total Funded Debt to Consolidated EBITDA of greater than or equal to 3.00:1.00 from the date such financial

statement and certificate were due until the date which is ten (10) Business Days following the receipt by the Administrative Agent of such financial statement and certificate, and provided, further, that the Lenders shall not in any way be deemed to have waived any Default or Event of Default, including, without limitation, an Event of Default resulting from the failure of the Company to comply with Section 7.13 of this Agreement, or any rights or remedies hereunder or under any other Loan Document in connection with the foregoing proviso. During the occurrence and continuance of an Event of Default, no downward adjustment, and only upward adjustments, shall be made to the Standby LC Fee.

“Standby Letter of Credit” shall mean any letter of credit issued to support an obligation of a Person and which may be drawn on only upon the failure of such Person to perform such obligation or other contingency.

“Subordinated Debt” or “Subordinated Indebtedness” shall mean all debt which is subordinated in right of payment to the prior final payment in full of the obligations of the Company and/or of its Subsidiaries to the Lenders hereunder and under any other Loan Document, provided that the terms of such subordination are satisfactory to and approved in writing by the Required Lenders.

“Subsidiaries” shall mean with respect to any Person, any corporation, association or other business entity more than 50% of the voting stock or other ownership interests (including, without limitation, membership interests in a limited liability company) of which is, at the time, owned or controlled, directly or indirectly, by such Person or one or more of its Subsidiaries or a combination thereof.

“Swingline Commitment” shall mean the obligation of the Swingline Lender to make Swingline Loans to the Company in an amount not to exceed \$10,000,000 at any time outstanding.

“Swingline Lender” shall mean the Administrative Agent, in its capacity as lender of Swingline Loans.

“Swingline Loan” shall have the meaning set forth in Section 2.04 hereof.

“Swingline Note” shall have the meaning set forth in Section 2.04(e) hereof.

“Total Commitment” shall mean, at any time, the aggregate of the Revolving Credit Commitments in effect at such time which, initially, shall be \$250,000,000, subject to increase pursuant to Section 2.05 hereof.

“Transition Period” means the period commencing on the date the Company or any Subsidiary of the Company consummates an Acceptable Acquisition, provided that at such time and after giving effect thereto the Company and its Subsidiaries are in compliance with Section 7.07, and ending on the last day of the fourth full fiscal quarter following the date of the consummation of such Acceptable Acquisition.

“Type” shall mean as to any Loan its status as a Base Rate Loan or an Adjusted Libor Loan.

“UCP” shall mean the International Chamber of Commerce Uniform Customs and Practice for Documentary Credits, 1993 Revision, ICC Publication No. 500 or any successor publication thereof.

“Unfunded Current Liability” of any Plan shall mean the amount, if any, by which the present value of the accrued benefits under such Plan as of the close of its most recent plan year exceeds the fair market value of the assets allocable thereto, determined in accordance with Section 412 of the Code.

“United States” or “U.S.” shall mean The United States of America.

“Unused Fee Rate” shall mean the percentage set forth below opposite the applicable ratio:

Consolidated Total Funded Debt to Consolidated EBITDA	Unused Fee Rate (360 Day Basis)
Greater than or equal to 3.00:1.00	0.250%
Greater than or equal to 2.50:1.00 and less than 3.00:1.00	0.200%
Greater than or equal to 2.00:1.00 and less than 2.50:1.00	0.175%
Greater than or equal to 1.50:1.00 and less than 2.00:1.00	0.150%
Greater than or equal to 1:00:1.00 and less than 1.50:1.00	0.125%
Less than 1.00:1.00	0.100%

Notwithstanding the foregoing, during the period commencing on the Closing Date and ending on the tenth (10th) Business Day following the date of delivery of the financial statements to the Administrative Agent for the fiscal quarter ended March 31, 2006, the Unused Fee Rate shall be 0.15% per annum. The Unused Fee Rate will be set or reset quarterly on the date which is ten (10) Business Days following the date of receipt by the Administrative Agent of the financial statements referred to in Section 6.03(a) or Section 6.03(b) hereof, as applicable, together with a certificate of the Chief Financial Officer of the Company certifying the ratio of Consolidated Total Funded Debt to Consolidated EBITDA and setting forth the calculation thereof in detail;

provided, however, if any such financial statement and certificate are not received by the Administrative Agent within the time period required pursuant to Section 6.03(a) or Section 6.03(b) hereof, as the case may be, the Unused Fee Rate will be set or reset to a rate, unless the rate of interest specified in Section 3.01(c) hereof is in effect solely due to the failure of the Company to comply with Section 6.03(a) or 6.03(b) hereof, determined based on a ratio of Consolidated Total Funded Debt to Consolidated EBITDA of greater than or equal to 3.00:1.00 from the date such financial statement and certificate were due until the date which is ten (10) Business Days following the receipt by the Administrative Agent of such financial statement and certificate, and provided, further, that the Lenders shall not in any way be deemed to have waived any Default or Event of Default, including, without limitation, an Event of Default resulting from the failure of the Company to comply with Section 7.13 of this Agreement, or any rights or remedies hereunder or under any other Loan Document in connection with the foregoing proviso. During the occurrence and continuance of an Event of Default, no downward adjustment, and only upward adjustments, shall be made to the Unused Fee Rate.

“YHS” shall mean Yeo Hiap Seng Limited, a corporation organized under the laws of Singapore.

“YHSM” shall mean Yeo Hiap Seng (Malaysia) Berhad, a corporation organized under the laws of Malaysia.

Section 1.02 **Terms Generally.**

The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter. Except as otherwise herein specifically provided, each accounting term used herein shall have the meaning given to it under Generally Accepted Accounting Principles. The term “including” shall not be limited or exclusive, unless specifically indicated to the contrary. The word “will” shall be construed to have the same meaning in effect as the word “shall”. The words “herein”, “hereof and “hereunder” and other words of similar import refer to this Agreement as a whole, including the exhibits and schedules hereto and any amendments thereof, all of which are by this reference incorporated into this Agreement.

ARTICLE II. LOANS

Section 2.01 **Revolving Credit Facility.**

(a) Subject to the terms and conditions, and relying upon the representations and warranties, set forth herein, each Lender severally agrees to make loans (individually a “Revolving Credit Loan” and, collectively, the “Revolving Credit Loans”) to the Company from time to time during the Revolving Credit Commitment Period up to, but not exceeding, at any one time outstanding the amount of its Revolving Credit Commitment; provided, however, that no Revolving Credit Loan shall be made if, after giving effect to such Revolving Credit Loan, the aggregate outstanding principal amount of all Revolving Credit Loans at such time would exceed the Total Commitment in effect at such time or if the Aggregate Outstandings would

(b) exceed the Total Commitment. During the Revolving Credit Commitment Period, the Company may from time to time borrow, repay and reborrow Revolving Credit Loans on or after the date hereof and prior to the Revolving Credit Commitment Termination Date, subject to the terms, provisions and limitations set forth herein. The Revolving Credit Loans may be (i) Adjusted Libor Loans, (ii) Base Rate Loans or (iii) a combination thereof.

(c) The Company shall give the Administrative Agent irrevocable written notice (or telephonic notice promptly confirmed in writing) not later than 11:00 a.m. New York, New York time, three (3) Business Days prior to the date of each proposed Adjusted Libor Loan under this Section 2.01 or prior to 11:00 a.m. New York, New York time on the date of each proposed Base Rate Loan under this Section 2.01. Such notice shall be irrevocable and shall specify (i) the amount and Type of the proposed borrowing, (ii) the initial Interest Period if an Adjusted Libor Loan, and (iii) the proposed Borrowing Date. Upon receipt of such notice from the Company, the Administrative Agent shall promptly notify each Lender thereof. Except for borrowings which utilize the full remaining amount of the Total Commitment, each borrowing of a Base Rate Loan (other than a Swingline Loan) shall be in an amount not less than \$1,000,000 or, if greater, whole multiples of \$100,000 in excess thereof. Each borrowing of an Adjusted Libor Loan shall be in an amount not less than \$1,000,000 or whole multiples of \$500,000 in excess thereof. Funding of all Revolving Credit Loans shall be made in accordance with Section 3.12 of this Agreement.

(d) The Company shall have the right, upon not less than five (5) Business Days’ prior written notice to the Administrative Agent, to terminate the Total Commitment or from time to time to permanently reduce the amount of the Total Commitment; provided, however, that no such termination or reduction shall be permitted if, after giving effect thereto and to any payments of the Revolving Credit Loans and the Swingline Loans made on the effective date thereof, the Aggregate Outstandings would exceed the Total Commitment as then reduced; provided, further, that any such termination or reduction requiring prepayment of any Adjusted Libor Loan shall be made only on the last day of the Interest Period with respect thereto or on the date of payment in full of all amounts owing pursuant to Section 3.08 hereof as a result of such termination or reduction. The Administrative Agent shall promptly notify each Lender of each notice from the Company to terminate or permanently reduce the amount of the Total Commitment pursuant to this Section 2.01(c). Any such reduction shall be in the amount of at least \$5,000,000 or whole multiples of \$1,000,000 in excess thereof, and shall reduce permanently the amount of the Total Commitment then in effect.

(e) The several agreements of the Lenders to make Revolving Credit Loans pursuant to this Section 2.01 shall automatically terminate on the Revolving Credit Commitment Termination Date. Upon such termination, the Company shall immediately repay in full the principal amount of the Revolving Credit Loans then outstanding, together with all accrued interest thereon and all other amounts due and payable hereunder.

Section 2.02 **Revolving Credit Notes.**

The Revolving Credit Loans made by each Lender shall be evidenced by a promissory note of the Company (individually, a “Revolving Credit Note” and, collectively, the “Revolving Credit Notes”), substantially in the form attached hereto as Exhibit A, each appropriately

completed, duly executed and delivered on behalf of the Company and payable to the order of such Lender in a principal amount equal to the Revolving Credit Commitment of such Lender. Each Revolving Credit Note shall (a) be dated the Closing Date, (b) be stated to mature on the Revolving Credit Commitment Termination Date, and (c) bear interest from the date of the first Revolving Credit Loan until paid in full on the unpaid principal amount thereof from time to time outstanding as provided in Section 3.01 hereof. Each Lender is authorized to record the date, Type and amount of each Revolving Credit Loan and the date and amount of each payment or prepayment of principal of each Revolving Credit Loan in such Lender's records or on the grid schedule annexed to such Lender's Revolving Credit Note; provided, however, that the failure of a Lender to set forth each such Revolving Credit Loan, payment and other information shall not in any manner affect the obligation of the Company to repay each Revolving Credit Loan made by such Lender in accordance with the terms of its Revolving Credit Note and this Agreement. The Revolving Credit Note, the grid schedule and the books and records of each Lender shall constitute presumptive evidence of the information so recorded absent demonstrable error.

Section 2.03 Letters of Credit.

(a) Generally. Subject to the terms and conditions set forth in this Agreement, upon the written request of the Company in accordance herewith, the Issuing Lender shall issue Letters of Credit at any time during the Revolving Credit Commitment Period with pro rata participation by all of the Lenders in accordance with their respective Commitment Proportions. Notwithstanding the foregoing, at no time shall the Aggregate Letters of Credit Outstandings exceed \$25,000,000, and no Letter of Credit shall be issued if, after giving effect to the same, the Aggregate Outstandings would exceed the Total Commitment in effect at such time. Each request for issuance of a Letter of Credit shall be in writing and shall be received by the Issuing Lender by no later than 12:00 noon, New York, New York time, on the day which is at least two (2) Business Days prior to the proposed date of issuance or creation. Such issuance or creation shall occur by no later than 5:00 p.m. on the proposed date of issuance (assuming proper prior notice as aforesaid). Subject to the terms and conditions contained herein, the expiry date, and the amount and beneficiary of the Letters of Credit will be as designated by the Company. The Issuing Lender shall promptly notify the Administrative Agent and the Lenders of the creation of any Letter of Credit and of the amounts of all Letters of Credit issued hereunder and of any extension, reduction, termination or amendment of any Letter of Credit. Each Letter of Credit issued by the Issuing Lender hereunder shall identify: (i) the dates of issuance and expiry of such Letter of Credit, (ii) the amount of such Letter of Credit (which shall be a sum certain), (iii) the beneficiary of such Letter of Credit, and (iv) the drafts and other documents necessary to be presented to the Issuing Lender upon drawing thereunder. In no event shall any Letter of Credit expire (or by its terms be required to be renewed to a date) after the Revolving Credit Commitment Termination Date. The Company agrees to execute and deliver to the Issuing Lender such further documents and instruments in connection with any Letter of Credit issued hereunder (including, without limitation, applications therefor) as the Issuing Lender in accordance with its customary practices may reasonably request. The Issuing Lender will not be required to issue a Letter of Credit hereunder with an expiration date (i) more than three hundred sixty (360) days from the date of issuance of such Letter of Credit, or (ii) on or after the Revolving Credit Commitment Termination Date. Notwithstanding the foregoing, Letters of Credit issued hereunder may include automatic extensions provided that the extensions shall be

for periods not to exceed three hundred sixty (360) days and provided further that the expiration date of any such Letter of Credit shall not occur on or after the Revolving Credit Commitment Termination Date.

(b) Drawings Under Letters of Credit. The Company hereby absolutely and unconditionally promises to pay the Issuing Lender not later than 12:00 noon (New York, New York time) the amount of each drawing under a Letter of Credit if the Company receives notice of such drawing prior to 10:00 a.m., New York, New York time, on the date of such drawing, or if such notice has not been received by the Company prior to such time on such date, then not later than 12:00 noon, New York, New York time, on the Business Day immediately following the day that the Company receives such notice; provided, however, (i) if any drawing was in an amount not less than \$1,000,000, the Company may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.01 hereof that such payment be financed with a Revolving Credit Loan which is a Base Rate Loan in an equivalent amount, and, to the extent so financed, the Company's obligation to make such payment shall be discharged and replaced by such a Base Rate Loan and (ii) if such drawing or payment was in an amount less than \$1,000,000, the Company may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.04 hereof that such payment be financed with a Swingline Loan in an equivalent amount and, to the extent so financed, the Company's obligation to make such payment shall be discharged and replaced by such Swingline Loan. Such request shall be made by the Company on the date of receipt of notice from the Issuing Lender of a drawing under a Letter of Credit as applicable. The Issuing Lender shall notify the Administrative Agent and each Lender of such request in accordance with Section 2.01 hereof. If the Company fails to make such payment when due, the Issuing Lender shall notify each Lender of the amount of the drawing under the applicable Letter of Credit. Each Lender agrees that on the first Business Day after receipt of such notice, it will immediately make available by no later than 12:00 noon, New York, New York time, to the Issuing Lender at its office located at the Payment Office, in immediately available funds, its Commitment Proportion of such drawing provided (i) each Lender's obligation shall be reduced by its Commitment Proportion of any reimbursement by the Company in respect of any such drawing pursuant to this Section 2.03 and (ii) no Lender shall be required to make payments to the Issuing Lender with respect to a drawing or payment which the Company reimbursed with the proceeds of a Revolving Credit Loan, as contemplated above, if such Lender fully funded its Commitment Proportion of such Revolving Credit Loan in accordance with Section 3.12 hereof. Any payment made by a Lender pursuant to this Section 2.03(b) to reimburse the Issuing Lender for any drawing under a Letter of Credit (other than a Base Rate Loan or a Swingline Loan as contemplated above) shall not constitute a Revolving Credit Loan or a Swingline Loan and shall not relieve the Company of its obligation to reimburse the Issuing Lender for such drawing or payment. Each drawing under a Letter of Credit which is not paid on the date such drawing is made shall accrue interest, for each day from and including the date of such drawing to but excluding the date that the Company reimburses the Issuing Lender in full for such drawing at the rate per annum then applicable to Revolving Credit Loans which are Base Rate Loans; provided, however, that if the Company fails to reimburse such drawing when due pursuant to this paragraph (b), then the Company shall pay to the Issuing Lender interest on the amount of such drawing at the rate per annum set forth in Section 3.01(c) hereof. Interest accruing pursuant to the preceding sentence shall be for the account of the Issuing Lender, except that interest accrued on and after the date of payment by any Lender pursuant to this Section 2.03(b) to reimburse the Issuing Lender shall be for the account of such

Lender to the extent of such payment. The Issuing Lender shall promptly notify the Administrative Agent (which shall notify each Lender) of each drawing under a Letter of Credit.

(c) Letter of Credit Obligations Absolute.

- (i) The obligation of the Company to reimburse the Issuing Lender as provided hereunder in respect of drawings under Letters of Credit shall rank pari passu with the obligation of the Company to repay the Revolving Credit Loans hereunder, and shall be absolute and unconditional under any and all circumstances subject to subsection (ii) below. Without limiting the generality of the foregoing, the obligation of the Company to reimburse the Issuing Lender in respect of drawings under Letters of Credit shall not be subject to any defense based on the non-application or misapplication by the beneficiary of the proceeds of any such drawing or the legality, validity, regularity or enforceability of the Letters of Credit or any related document, even though such document shall in fact prove to be invalid, fraudulent or forged, or any dispute between or among the Company, the beneficiary of any Letter of Credit, or any financial institution or other party to which any Letter of Credit may be transferred. The Issuing Lender may accept or pay any draft presented to it under any Letter of Credit regardless of when drawn or made and whether or not negotiated, if such draft, accompanying certificate or documents and any transmittal advice are presented or negotiated on or before the expiry date of such Letter of Credit or any renewal or extension thereof then in effect, and is in substantial compliance with the terms and conditions of such Letter of Credit. Furthermore, neither the Issuing Lender nor any of its correspondents nor any Lender shall be responsible, as to any document presented under a Letter of Credit which appears to be regular on its face, and appears on its face to be in substantial compliance with the terms of such Letter of Credit, for the validity or sufficiency of any signature or endorsement, for delay in giving any notice or failure of any instrument to bear adequate reference to any Letter of Credit, or for failure of any Person to note the amount of any draft on the reverse of any Letter of Credit. The Issuing Lender shall have the right, in its sole discretion, to decline to accept any documents and to decline to making payment under any Letter of Credit if the documents presented are not in strict compliance with the terms of such Letter of Credit.

- (ii) Any action, inaction or omission on the part of the Issuing Lender or any of its correspondents under or in connection with any Letter of Credit or the related instruments, documents or property, if in good faith and in conformity with such laws, regulations or customs as are applicable, shall be binding upon the Company and

shall not place the Issuing Lender or any of its correspondents or any Lender under any liability to the Company in the absence of (x) gross negligence or willful misconduct by the Issuing Lender or its correspondents or (y) the failure by the Issuing Lender to pay under a Letter of Credit after presentation of a draft and documents strictly complying with such Letter of Credit unless the Issuing Lender is prohibited from making such payment pursuant to a court order. The Issuing Lender's rights, powers, privileges and immunities specified in or arising under this Agreement are in addition to any heretofore or at any time hereafter otherwise created or arising, whether by statute or rule of law or contract. All Letters of Credit issued hereunder will, except to the extent otherwise expressly provided hereunder, be governed by the UCP to the extent applicable and not inconsistent with the laws of the State of New York.

(d) Obligations of Lenders in Respect of Letters of Credit. Each Lender acknowledges that each Letter of Credit issued by the Issuing Lender pursuant to this Agreement is issued on behalf of and with the ratable participation of all of the Lenders (i.e., in accordance with their respective Commitment Proportions), and each Lender agrees to make the payments required by subsection (b) above and agrees to be responsible for its pro rata share of all liabilities incurred by the Issuing Lender with respect to each Letter of Credit issued, established, opened or extended by the Issuing Lender pursuant to this Agreement for the account of the Company hereunder. Each Lender agrees with the Issuing Lender and the other Lenders that its obligation to make the payments required by subsection (b) above shall not be affected in any way by any circumstances (other than the gross negligence or willful misconduct of the Issuing Lender) occurring before or after the making of any payment by the Issuing Lender pursuant to any Letter of Credit, including, without limitation: (i) any modification or amendment of, or any consent, waiver, release or forbearance with respect to, any of the terms of this Agreement or any other instrument or document referred to herein; (ii) the existence of any Default or Event of Default; or (iii) any change of any kind whatsoever in the financial position or credit worthiness of the Company.

(e) Replacement of the Issuing Lender. The Issuing Lender may be replaced at any time by written agreement among the Company, the Administrative Agent, the replaced Issuing Lender and the successor Issuing Lender. The Administrative Agent shall notify the Lenders of any such replacement of the Issuing Lender. At the time any such replacement shall become effective, the Company shall pay all unpaid fees accrued for the account of the replaced Issuing Lender pursuant to Section 3.04 hereof. From and after the effective date of any such replacement, (i) the successor Issuing Lender shall have all the rights and obligations of the Issuing Lender under this Agreement with respect to Letters of Credit to be issued thereafter, and (ii) references herein to the term "Issuing Lender" shall be deemed to refer to such successor or to any previous Issuing Lender, or to such successor and all previous Issuing Lenders, as the context shall require. After the replacement of an Issuing Lender hereunder, the replaced Issuing Lender shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Lender under this Agreement with respect to Letters of Credit issued prior to such replacement, but shall not be required to issue additional Letters of Credit.

Section 2.04 **Swingline Loans.**

(a) Subject to the terms and conditions, and relying upon the representations and warranties, set forth herein, the Swingline Lender agrees to make loans (individually a “Swingline Loan” and, collectively, the “Swingline Loans”) to the Company from time to time during the Revolving Credit Commitment Period up to, but not exceeding, at any one time outstanding the Swingline Commitment; provided, however, that no Swingline Loan shall be made if, after giving effect to such Swingline Loan, the Aggregate Outstandings would exceed the Total Commitment in effect at such time; and provided further that the proceeds from Swingline Loans shall not be used to repay outstanding Revolving Credit Loans. During the Revolving Credit Commitment Period, the Company may from time to time borrow, repay and reborrow Swingline Loans on or after the date hereof and prior to the Revolving Credit Commitment Termination Date, subject to the terms, provisions and limitations set forth herein. The Swingline Loans shall be Base Rate Loans. The Company shall repay each Swingline Loan on the earlier to occur of (i) the date ten (10) Business Days after such Loan is made and (ii) the Revolving Credit Commitment Termination Date.

(b) The Company shall give the Administrative Agent irrevocable written notice (or telephonic notice promptly confirmed in writing) not later than 2:00 p.m. New York, New York time on the date of each proposed Swingline Loan under this Section 2.04. Such notice shall be irrevocable and shall specify (i) the amount of the proposed borrowing, and (ii) the proposed Borrowing Date. Upon receipt of such notice from the Company, the Administrative Agent shall promptly notify the Swingline Lender and each Lender thereof. Each borrowing of a Swingline Loan shall be in an amount not less than \$100,000 or, if greater, whole multiples of \$100,000 in excess thereof. The Swingline Lender shall make each Swingline Loan available to the Company by means of a credit to the operating account of the Company with the Swingline Lender (or, in the case of a Swingline Loan made to finance or reimburse a Letter of Credit drawing in accordance with Section 2.03(b) hereof, by remittance to the Issuing Bank) by 4:00 p.m. New York, New York time, on the requested date of such Swingline Loan.

(c) So long as no Default or Event of Default has occurred and is continuing, the Company may repay Swingline Loans with the proceeds of a Revolving Credit Loan. The Swingline Lender may, at any time, require the Lenders to acquire participations (in the form of Revolving Credit Loans, which shall initially be Base Rate Loans) with respect to all or a portion of the Swingline Loans outstanding. If (i) the Company desires to repay such Swingline Loan with the proceeds of a Revolving Credit Loan or (ii) the Swingline Lender desires to have the Lenders acquire participations (in the form of Revolving Credit Loans, which shall initially be Base Rate Loans), the Swingline Lender shall, by written notice given to the Administrative Agent no later than 10:00 a.m. New York, New York time on any Business Day, require the Lenders to acquire participations (in the form of Revolving Credit Loans, which shall initially be Base Rate Loans) on such Business Day with respect to all or a portion of the Swingline Loans outstanding. Such notice shall specify the aggregate amount of Swingline Loans which will become such Revolving Credit Loans. Promptly upon receipt of such notice, the Administrative Agent will give notice thereof to each Lender, specifying in such notice such Lender’s Commitment Proportion of such Swingline Loan or Loans. Each Lender hereby absolutely and unconditionally agrees, upon receipt of notice as provided above, to pay to the Administrative Agent, for the account of the Swingline Lender, such Lender’s Commitment Proportion of such

Swingline Loan or Loans. Each Lender acknowledges and agrees that its obligation to acquire a participation in Swingline Loans pursuant to this paragraph is absolute and unconditional and shall not be affected by any circumstance whatsoever, including the occurrence and continuance of a Default or Event of Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Lender shall comply with its obligation under this paragraph by wire transfer of immediately available funds, in the same manner as provided in Section 3.12 hereof with respect to Loans made by such Lender, and the Administrative Agent shall promptly pay to the Swingline Lender the amounts so received by it from the Lenders. The Administrative Agent shall notify the Company of any participation in any Swingline Loan acquired pursuant to this paragraph, and thereafter payments in respect of such Swingline Loan shall be made to the Administrative Agent and not to the Swingline Lender. Any amounts received by the Swingline Lender from the Company (or other party on behalf of the Company) in respect of a Swingline Loan after receipt by the Swingline Lender of the proceeds of a sale of a participation therein shall be promptly remitted to the Administrative Agent; any such amounts received by the Administrative Agent shall be promptly remitted by the Administrative Agent to the Lenders that shall have made their payments pursuant to this paragraph and to the Swingline Lender, as their interests may appear. The purchase of a participation in a Swingline Loan pursuant to this paragraph (c) shall not relieve the Company of any default in the payment thereof.

(d) The agreement of the Swingline Lender to make Swingline Loans pursuant to this Section 2.04 shall automatically terminate on the Revolving Credit Commitment Termination Date. Upon such termination, the Company shall immediately repay the Swingline Lender or the Administrative Agent, as applicable, in full the principal amount of the Swingline Loans then outstanding, together with all accrued interest thereon and all other amounts due and payable hereunder.

(e) The Swingline Loans made by the Swingline Lender shall be evidenced by a promissory note of the Company (the "Swingline Note"), substantially in the form attached hereto as Exhibit B, appropriately completed, duly executed and delivered on behalf of the Company and payable to the order of the Swingline Lender in a principal amount equal to the Swingline Commitment. The Swingline Note shall (a) be dated the Closing Date, (b) be stated to mature on the Revolving Credit Commitment Termination Date, and (c) bear interest from the date thereof until paid in full on the unpaid principal amount thereof from time to time outstanding as provided in Section 3.01 hereof. The Swingline Lender is authorized to record the date and amount of each Swingline Loan and the date and amount of each payment or prepayment of principal of each Swingline Loan in the Swingline Lender's records or on the grid schedule annexed to the Swingline Note; provided, however, that the failure of the Swingline Lender to set forth each such Swingline Loan, payment and other information shall not in any manner affect the obligation of the Company to repay each Swingline Loan made by the Swingline Lender in accordance with the terms of the Swingline Note and this Agreement. The Swingline Note, the grid schedule and the books and records of the Swingline Lender shall constitute presumptive evidence of the information so recorded absent demonstrable error.

Section 2.05 Increase in Commitments.

(a) The Company shall have the right at any time (provided, that such right may not be exercised by the Company more than twice after the Closing Date, and each such exercised increase shall be in an amount not less than \$25,000,000) to increase the Total Commitment hereunder by an aggregate amount, for all exercises pursuant to this Section 2.05, which is less than or equal to \$100,000,000 by (i) requesting (which request may be agreed to or declined by such Lender in its sole discretion) that one or more Lenders increase its respective Revolving Credit Commitment or (ii) adding to this Agreement one or more financial institutions as a Lender; provided, however, that each such financial institution shall be approved by the Company and the Administrative Agent (which approval shall not be unreasonably withheld). For the avoidance of doubt, if the Company's request pursuant to clause (i) above is declined by such Lender, such request shall not be considered an exercise of the Company's right for purposes of the first proviso in the preceding sentence. An increase in the Total Commitment shall be effectuated pursuant to an agreement with an Increasing Lender or Additional Lender, as applicable, in form and substance satisfactory to the Company and the Administrative Agent pursuant to which (x) in the case of an Additional Lender, such Additional Lender shall undertake a Revolving Credit Commitment, which Revolving Credit Commitment shall be in an amount at least equal to \$10,000,000 or an integral multiple of \$500,000 in excess thereof, (y) in the case of an Increasing Lender, such Increasing Lender shall increase its Revolving Credit Commitment, which increase in its Revolving Credit Commitment shall be at least equal to \$1,000,000 or an integral multiple of \$500,000 in excess thereof, and (z) in the case of any Additional Lender, such Additional Lender shall agree to be bound as a Lender under the terms and conditions of this Agreement and the other Loan Documents. Upon the effectiveness of any such agreement and its acknowledgement by the Company and the Administrative Agent (the date of any such effectiveness and acknowledgement, an "Increased Commitment Date"), such Additional Lender shall thereupon become a "Lender" for all purposes of this Agreement with a Revolving Credit Commitment in the amount set forth in such agreement or, as applicable, the Revolving Credit Commitment of such Increasing Lender shall be increased in the amount set forth in such agreement, and this Agreement (including the signature page of such Increasing Lender) shall be deemed amended to the extent, but only to the extent, necessary to reflect the addition of such Additional Lender or the increased Revolving Credit Commitment of such Increasing Lender, the resulting adjustment of the Revolving Credit Commitments arising therefrom and the adjustments described in Section 2.05(d) hereof.

(b) Any increase in the Total Commitment pursuant to Section 2.05(a) hereof shall not be effective unless:

- (i) the Company shall have given the Administrative Agent notice (which notice shall be promptly forwarded by the Administrative Agent to each Lender) of such desired increase at least fifteen (15) Business Days (or such shorter period as the Administrative Agent may agree to in the given instance) prior to any such proposed Increased Commitment Date;

- (ii) no Default or Event of Default shall have occurred and be continuing as of the date of the notice referred to in the foregoing clause (i) or on the Increased Commitment Date; and
- (iii) the representations and warranties of the Company in Article IV hereof shall be true and correct in all material respects on and as of the date of the notice referred to in clause (i) and on and as of the applicable Increased Commitment Date with the same effect as if made on and as of such notice date or Increased Commitment Date (except to the extent such representations and warranties expressly refer to an earlier date, in which case they shall be true and correct as of such earlier date).

Each notice given by the Company pursuant to Section 2.05(b)(i) hereof shall constitute a representation and warranty by the Company hereunder, as of the date of each such notice and as of each Increased Commitment Date, and after giving effect to the increase in the Total Commitment effective thereon, that the conditions in this Section 2.05(b) are satisfied.

(c) Effective on each Increased Commitment Date, (i) the amount of each Lender's risk participation in all outstanding Letters of Credit shall be deemed to be automatically increased or decreased, as applicable, to reflect any changes in such Lender's Commitment Proportion after giving effect to the increase in the Total Commitment effective thereon, and (ii) the amount of the Revolving Credit Loans then outstanding and held by each Lender shall be adjusted to reflect any such changes in such Lender's Commitment Proportion. Each Lender having Revolving Credit Loans then outstanding and whose Commitment Proportion has been decreased as a result of the increase in the Total Commitment shall be deemed to have assigned, without recourse, such portion of such Revolving Credit Loans as shall be necessary to effectuate such adjustment to the Additional Lenders and Increasing Lenders (and each such assignment shall be deemed a prepayment for purposes of Section 3.08 hereof). Each Additional Lender and Increasing Lender shall (x) be deemed to have assumed such portion of such Revolving Credit Loans and (y) fund on the Increased Commitment Date, such assumed amounts to the Agent for the account of the assigning Lender in accordance with the provisions hereof.

(d) The Administrative Agent shall promptly notify the Lenders and the Company of any increase in the Total Commitment under this Section 2.05 and of each Lender's Commitment Proportion after giving effect to any such increase.

(e) Upon the effectiveness of any increase in the Total Commitment in accordance with this Section 2.05, the Company agrees to execute Revolving Credit Notes in favor of each Additional Lender and each Increasing Lender upon the request of such Lender to evidence such Lender's Revolving Credit Commitment after giving effect to such increase to the Total Commitment and to execute such other documents as the Administrative Agent shall deem necessary and appropriate to give effect to this Section 2.05; provided, that any Increasing Lender who has requested a new Revolving Credit Note in an amount equal to its increased Revolving Credit Commitment shall have returned for cancellation any other Revolving Credit Notes previously issued to it under this Agreement.

ARTICLE III.
PROVISIONS RELATING TO ALL EXTENSIONS OF CREDIT; FEES AND PAYMENTS

Section 3.01 **Interest Rate; Continuation and Conversion of Loans.**

- (a) Each Base Rate Loan shall bear interest for the period from the date thereof on the unpaid principal amount thereof at a fluctuating rate per annum equal to the Base Rate plus the applicable Interest Rate Margin.
- (b) Each Adjusted Libor Loan shall bear interest for the Interest Period applicable thereto on the unpaid principal amount thereof at a rate per annum equal to the Reserve Adjusted Libor determined for each Interest Period thereof in accordance with the terms hereof plus the applicable Interest Rate Margin.
- (c) Upon the occurrence and during the continuance of a Default or an Event of Default, at the option of the Required Lenders, the rate of interest on all Loans and any other amounts payable under the Loan Documents will be increased to a rate equal to (i) 2% per annum plus the rate of interest otherwise applicable to such Loan, in the case of payments of principal, and (ii) 2% per annum plus the rate that would be applicable to Base Rate Loans from time to time, in the case of payments of any other amount.
- (d) The Company may elect from time to time to convert outstanding Revolving Credit Loans from Adjusted Libor Loans to Base Rate Loans by giving the Administrative Agent at least three (3) Business Days prior irrevocable written notice of such election, provided that any such conversion of Adjusted Libor Loans shall only be made on the last day of an Interest Period with respect thereto or upon the date of payment in full of any amounts owing pursuant to Section 3.08 hereof as a result of such conversion. Upon receipt of such notice, the Administrative Agent shall promptly notify each Lender thereof. The Company may elect from time to time to convert outstanding Revolving Credit Loans from Base Rate Loans to Adjusted Libor Loans by giving the Administrative Agent irrevocable written notice of such election not later than 11:00 a.m. New York, New York time three (3) Business Days prior to the date of the proposed conversion. Upon receipt of such notice the Administrative Agent shall promptly notify each Lender thereof. All or any part of outstanding Base Rate Loans (other than Swingline Loans) may be converted as provided herein, provided that each conversion shall be in the principal amount of \$2,000,000 or whole multiples of \$1,000,000 in excess thereof, and further provided that no Default or Event of Default shall have occurred and be continuing. Any conversion to or from Adjusted Libor Loans hereunder shall be in such amounts and be made pursuant to such elections so that, after giving effect thereto, the aggregate principal amount of all Adjusted Libor Loans having the same Interest Period shall not be less than \$2,000,000.
- (e) Any Adjusted Libor Loan in a minimum principal amount of \$2,000,000 may be continued as such upon the expiration of an Interest Period with respect thereto by compliance by the Company with the notice provisions contained in the definition of Interest Period; provided that no Adjusted Libor Loan may be continued as such when any Default or Event of Default has occurred and is continuing, but shall be automatically converted to a Base

Rate Loan on the last day of the Interest Period in effect when the Administrative Agent is notified, or otherwise has actual knowledge, of such Default or Event of Default.

(f) If the Company shall fail to select the duration of any Interest Period for any Adjusted Libor Loan in accordance with the definition of "Interest Period" set forth in Section 1.01 hereof, the Company shall be deemed to have selected an Interest Period of one month.

(g) No Revolving Credit Loan may be converted to or continued as an Adjusted Libor Loan with an Interest Period that extends beyond the Revolving Credit Commitment Termination Date.

(h) Anything in this Agreement or in any Note to the contrary notwithstanding, the obligation of the Company to make payments of interest shall be subject to the limitation that payments of interest shall not be required to be paid to a Lender to the extent that the charging or receipt thereof would not be permissible under the law or laws applicable to such Lender limiting the rates of interest that may be charged or collected by such Lender. In each such event payments of interest required to be paid to such Lender shall be calculated at the highest rate permitted by applicable law until such time as the rates of interest required hereunder may lawfully be charged and collected by such Lender. If the provisions of this Agreement or any Note would at any time otherwise require payment by the Company to any Lender of any amount of interest in excess of the maximum amount then permitted by applicable law, the interest payments to such Lender shall be reduced to the extent necessary so that such Lender shall not receive interest in excess of such maximum amount.

(i) Interest on each Loan shall be payable in arrears on each Interest Payment Date and shall be payable for the actual days elapsed. Any rate of interest on the Loans or other Obligations which is computed on the basis of the Base Rate shall change when and as the Base Rate changes in accordance with the definition thereof.

Section 3.02 Use of Proceeds.

The proceeds of the Revolving Credit Loans shall be used to refinance Indebtedness of the Company under the 2004 Credit Agreement, to finance Acceptable Acquisitions and for general working capital and other corporate purposes. The Swingline Loans shall be used by the Company for general working capital and other corporate purposes. Commercial Letters of Credit shall be issued by the Issuing Lender hereunder for the account of the Company and shall be issued for the purpose of providing the primary payment mechanism in connection with the purchase of any materials, goods or services by the Company or any Guarantors in the ordinary course of their respective businesses. Standby Letters of Credit shall be issued by the Issuing Lender for the account of the Company and shall be issued for purposes in connection with, and in the ordinary course of, the business of the Company or the Guarantors consistent with historical purposes of standby letters of credit issued for the account of the Company prior to the date hereof.

Section 3.03 Prepayments.

(a) Voluntary. The Company may, at any time and from time to time, prepay the then outstanding Loans, in whole or in part, without premium or penalty, except as provided in Section 3.08 hereof, upon written notice to the Administrative Agent (or telephonic notice promptly confirmed in writing) not later than 11:00 a.m. New York, New York time, three (3) Business Days before the date of prepayment with respect to prepayments of Adjusted Libor Loans, or 11:00 a.m. New York, New York time on the date of prepayment with respect to Base Rate Loans. Each notice shall be irrevocable and shall specify the date and amount of prepayment and whether such prepayment is of Adjusted Libor Loans or Base Rate Loans or a combination thereof, and if a combination thereof, the amount of prepayment allocable to each. Upon receipt of such notice, the Administrative Agent shall promptly notify each Lender thereof. If such notice is given, the Company shall make such prepayment, and the amount specified in such notice shall be due and payable, on the date specified therein. Each partial prepayment pursuant to this Section 3.03 hereof shall be in a principal amount of \$1,000,000 or whole multiples of \$1,000,000 in excess thereof.

(b) Mandatory. To the extent that the Aggregate Outstandings exceed the Total Commitment, then the Company shall immediately prepay the Revolving Credit Loans to the extent necessary to cause compliance with each of the foregoing. To the extent that such prepayments are insufficient to cause such compliance, the Company shall pledge to the Administrative Agent, for the ratable benefit of the Lenders, Cash Collateral in an amount equal to the amount of such shortfall, which Cash Collateral shall secure the reimbursement obligations of the Company to the Issuing Lender with respect to Letters of Credit.

All prepayments shall be applied, first, to Base Rate Loans outstanding and second, to Adjusted Libor Loans outstanding, in such order as the Administrative Agent shall determine in its sole and absolute discretion. All prepayments shall be accompanied by accrued interest on the principal amount being prepaid to the date of prepayment.

Section 3.04 **Fees.**

(a) The Company agrees to pay to the Administrative Agent for the account of, and pro rata distribution to, each Lender a commitment fee equal to the sum of the actual daily unused portion of the Total Commitment (after giving effect to any Swingline Loans then outstanding) from the date of this Agreement until the Revolving Credit Commitment Termination Date multiplied by the rate set forth in the definition of the term "Unused Fee Rate" as in effect on the date of calculation, in each case, based on a year of 360 days. Such fees shall be payable in arrears (i) on the last day of June, September, December and March of each year commencing June 30, 2006, (ii) on the Revolving Credit Commitment Termination Date, and (iii) on each date the Revolving Credit Commitments are permanently reduced in whole or in part.

(b) The Company shall pay to the Administrative Agent for the account of, and pro rata distribution to, the Lenders a commission with respect to the Lenders' participation in Standby Letters of Credit equal to the Standby LC Fee multiplied by the average daily amount of the Standby LC Exposure during the period from and including the Closing Date to but excluding the later of (a) the Revolving Credit Commitment Termination Date and (b) the date on which such Lender ceases to have any Standby LC Exposure. Such commissions with respect to Standby Letters of Credit shall be payable in arrears on the last Business Day of June, September, December and March of each year, commencing June 30, 2006; provided that all such fees shall be payable on the date on which the Total Commitment terminates and any such fees accruing after the date on which the Total Commitment terminates shall be payable on demand. All commissions with respect to Standby Letters of Credit shall be computed on the basis of a year of three hundred sixty (360) days and shall be payable for the actual number of days elapsed.

(c) The Company shall pay to the Administrative Agent for the account of, and pro rata distribution to each Lender, a payment fee equal to 0.125% of the amount paid on each Commercial Letter of Credit upon payment of such amount by the Issuing Lender.

(d) In addition, the Company shall pay to the Issuing Lender for its own account, upon issuance of any Letter of Credit hereunder, a letter of credit fronting fee equal to the greater of (i) 0.125% of the face amount of each Letter of Credit issued hereunder, or (ii) \$250, together with the customary fees charged by the Issuing Lender in its sole discretion with respect to the issuance, payment, acceptance, processing and administration of Letters of Credit (including, without limitation, amendments to Letters of Credit).

(e) The Company further agrees to pay to the Administrative Agent for the account of each Lender an upfront fee in an aggregate amount previously agreed upon between the Lead Arranger and the Company to be distributed to the Lenders in accordance with their respective agreements with the Lead Arranger.

Section 3.05 Computation of Interest and Fees.

(a) All computations of interest for Base Rate Loans when the Base Rate is determined by the Prime Rate shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

(b) In the event that the Administrative Agent shall have determined in good faith (which determination shall be conclusive and binding upon the Company, absent demonstrable error) that, by reason of circumstances affecting the London interbank market, adequate and reasonable means do not exist for ascertaining the Reserve Adjusted Libor applicable pursuant to Section 3.01(b) hereof for any requested Interest Period with respect to (a) the making of an Adjusted Libor Loan, (b) an Adjusted Libor Loan that will result from the requested conversion of a Base Rate Loan into an Adjusted Libor Loan, or (c) the continuation of an Adjusted Libor Loan beyond the expiration of the then current Interest Period with respect thereto, the Administrative Agent shall forthwith give notice by telephone of such determination, promptly confirmed in writing, to the Company and each Lender of such determination. Until the Administrative Agent notifies the Company that the circumstances giving rise to the suspension described herein no longer exist, the Company shall not have the right to request or continue an Adjusted Libor Loan or to convert a Base Rate Loan to an Adjusted Libor Loan.

Section 3.06 Illegality.

Notwithstanding any other provisions herein, if any introduction of or change in any law, regulation, treaty or directive or in the interpretation or application thereof shall make it unlawful for any Lender to make or maintain Adjusted Libor Loans as contemplated by this Agreement, such Lender shall forthwith give notice by telephone of such circumstances, promptly confirmed in writing, to the Administrative Agent, which notice the Administrative Agent shall promptly transmit to the Company and the other Lenders and (a) the commitment of such Lender to make and to allow conversion to or continuations of Adjusted Libor Loans shall forthwith be cancelled for the duration of such illegality and (b) the Revolving Credit Loans of the affected Lender then outstanding as Adjusted Libor Loans, if any, shall be converted automatically to Base Rate Loans on the next succeeding last day of each Interest Period applicable to such Adjusted Libor Loans or within such earlier period as may be required by law. The Company shall pay to such Lender, upon demand, any additional amounts required to be paid pursuant to Section 3.08 hereof.

Section 3.07 Increased Costs.

(a) In the event that any introduction of or change in, after the date hereof, any applicable law, regulation, treaty, order or directive or in the interpretation or application thereof (including, without limitation, any request, guideline or policy, whether or not having the force of law, of or from any central bank or other governmental authority, agency or

instrumentality and including, without limitation, Regulation D), by any authority charged with the administration or interpretation thereof shall occur, which:

- (i) shall subject any Lender or the Issuing Lender to any tax of any kind whatsoever with respect to this Agreement, any Note, any Loan or any Letter of Credit (or participations therein) or change the basis of taxation of payments to such Lender or the Issuing Lender of principal, interest, fees or any other amount payable hereunder (other than any tax that is measured with respect to the overall net income of such Lender or the Issuing Lender or any Lending Office of such Lender or the Issuing Lender and that is imposed by the United States of America, or any political subdivision or taxing authority thereof or therein, or by any jurisdiction in which such Lender's Lending Office or the Issuing Lender's lending office is located, or by any jurisdiction in which such Lender is organized, has its principal office or is managed and controlled); or
- (ii) shall impose, modify or hold applicable any reserve, special deposit, compulsory loan or similar requirement (whether or not having the force of law) against assets held by, or deposits or other liabilities in or for the account of, advances or loans by, or other credit extended by, or any other acquisition of funds by, any office of any Lender or the Issuing Lender; or
- (iii) shall impose on any Lender or the Issuing Lender any other condition, or change therein;

and the result of any of the foregoing is to increase the cost to such Lender or the Issuing Lender of making, renewing or maintaining or participating in advances or extensions of credit hereunder or to reduce any amount receivable hereunder, in each case by an amount which such Lender or the Issuing Lender deems reasonably material, then, in any such case, subject to the provisions of Section 3.09 hereof, the Company shall pay such Lender or the Issuing Lender, upon written demand, such additional amount or amounts as such Lender or the Issuing Lender shall have determined in good faith will compensate such Lender for such increased costs or reduction.

(b) If any Lender or the Issuing Lender shall have determined that the adoption of, or any change in, any applicable law, rule or regulation regarding capital adequacy, or any change in the interpretation or administration thereof by any governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by any Lender or the Issuing Lender (or any lending office of any Lender or the Issuing Lender which funds Loans hereunder) or any Lender's or the Issuing Lender's holding company, with any request or directive regarding capital adequacy (whether or not having the force of the law) of any such authority, central bank or comparable agency, has or would have the effect of reducing the rate of return on such Lender's or the Issuing Lender's capital or on the capital of such Lender's or the Issuing Lender's holding company as a consequence of its

obligations hereunder to a level below that which such Lender or the Issuing Lender (or such holding company) could have achieved but for such adoption, change or compliance (taking into consideration such Lender's or the Issuing Lender's policies and the policies of such Lender's or the Issuing Lender's holding company with respect to capital adequacy) by an amount deemed by such Lender or the Issuing Lender to be material, then from time to time, the Company shall pay to such Lender or the Issuing Lender the additional amount or amounts as such Lender or the Issuing Lender shall have determined will compensate such Lender or the Issuing Lender or such Lender's or the Issuing Lender's holding company for such reduction. Such Lender's or the Issuing Lender's determination of such amounts shall be conclusive and binding on the Company absent demonstrable error.

(c) A certificate of a Lender setting forth the amount or amounts payable pursuant to Sections 3.07(a) and 3.07(b) hereof shall be conclusive absent demonstrable error. The Company shall pay such Lender or the Issuing Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) In the event any Lender or the Issuing Lender shall be entitled to compensation pursuant to Section 3.07(a) or Section 3.07(b) hereof, it shall promptly notify the Administrative Agent and the Company of the event by reason of which it has become so entitled; provided, however, no failure on the part of any Lender or the Issuing Lender to demand compensation under clause (a) or clause (b) above on one occasion shall constitute a waiver of its right to demand compensation on any other occasion.

Section 3.08 Indemnity.

The Company agrees to indemnify each Lender and to hold each Lender harmless from any loss, cost or expense which such Lender may sustain or incur, including, without limitation, interest or fees payable by such Lender to lenders of funds obtained by it in order to maintain Adjusted Libor Loans hereunder, as a consequence of (a) default by the Company in payment of the principal amount of or interest on any Adjusted Libor Loan, (b) default by the Company to accept or make a borrowing of an Adjusted Libor Loan or a conversion into or continuation of an Adjusted Libor Loan after the Company has requested such borrowing, conversion or continuation, (c) default by the Company in making any prepayment of any Adjusted Libor Loan after the Company gives a notice in accordance with Section 3.03 hereof and/or (d) the making of any payment or prepayment (whether mandatory or optional) of an Adjusted Libor Loan (including as a result of an assignment pursuant to Section 2.05(c) hereof) or the making of any conversion of an Adjusted Libor Loan to a Base Rate Loan on a day which is not the last day of the applicable Interest Period with respect thereto. A certificate of a Lender setting forth such amounts shall be conclusive absent demonstrable error. The Company shall pay such Lender the amount shown as due on any certificate within ten (10) days after receipt thereof.

Section 3.09 Mitigation, Obligations; Replacement of Lenders.

(a) Each Lender agrees to use reasonable efforts to designate an alternate Lending Office with respect to any Type of Loan affected by the events or circumstances described in Section 3.05(b), 3.06, 3.07 or 3.10 hereof to avoid or minimize the Company's liability thereunder; provided, however, that such efforts shall not cause the imposition on such

Lender of any additional cost or legal, regulatory or administrative burdens deemed by such Lender, in its sole discretion, to be material.

(b) If any Lender is affected by the events or circumstances described in Section 3.05(b), 3.06, 3.07 or 3.10 and requests additional compensation pursuant to the terms of this Agreement, or if any Lender defaults in its obligation to fund Loans hereunder, then the Company may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (and in accordance with the restrictions set forth in Section 10.05 hereof), all its interests, rights, and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Lender, if such Lender accepts such assignment); provided, that (i) the Company shall have received the prior written consent of the Administrative Agent (and if a Commitment is being assigned, the Issuing Bank and the Swingline Lender), which consent shall not be unreasonably withheld or delayed, (ii) such Lender shall have received payment of an amount equal to the outstanding principal amount of its Loans and participation in Swingline Loans, accrued interest thereon, accrued fees and other amounts payable to it hereunder from the assignee (to the extent of the outstanding principal and accrued interest and fees) or the Company (in the case of all other amounts) and (iii) in the case of any such assignment resulting from a claim for compensation pursuant to Section 3.05(b), 3.06 or 3.07 hereof or payments required to be made pursuant to Section 3.10 hereof, such assignment will result in a reduction of such compensation or payments. A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Company to require such assignment and delegations cease to apply.

Section 3.10 **Taxes.**

(a) Except as set forth in clause (d) below or as required by law, all payments made by the Company under this Agreement shall be made free and clear of, and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, excluding (i) income and franchise taxes (imposed in lieu of income taxes) imposed on the Administrative Agent, the Issuing Lender or a Lender as a result of a present, former or future connection between the jurisdiction of the government or the taxing authority imposing such tax and the Administrative Agent, Issuing Lender or Lender or the lending office of the Administrative Agent, Issuing Lender or a Lender (excluding a connection arising solely from the Administrative Agent, Issuing Lender or a Lender having executed this Agreement, the Notes or the other Loan Documents) or any political subdivision or taxing authority thereof or therein, and (ii) taxes (including withholding taxes) imposed by reason of the failure of the Administrative Agent, Issuing Lender or a Lender, if organized outside of the United States, to comply with Section 3.10(c) hereof (or the inaccuracy at any time of the certificates, documents or other evidence delivered thereunder) (such non-excluded taxes being called "Non-Excluded Taxes"). If any Non-Excluded Taxes are required to be withheld from any amounts payable to the Administrative Agent, the Issuing Lender or any Lender hereunder, or under the Notes, the amount so payable to the Administrative Agent, the Issuing Lender or such Lender shall be increased to the extent necessary to yield to the Administrative Agent, the Issuing Lender or such Lender (after payment of all Non-Excluded Taxes and free and clear of all liability in respect of such Non-Excluded Taxes) interest or any such other amounts payable

hereunder at the rates or in the amounts specified in this Agreement and the Notes provided, however, that the Company shall not be required to increase any such amounts payable to any Lender with respect to any Non-Excluded Taxes (i) that are attributable to such Lender's failure to comply with the requirements of Section 3.09 hereof, (ii) that are United States withholding taxes imposed (or branch profits taxes imposed in lieu thereof) on amounts payable to such Lender at the time such Lender becomes a party to this Agreement, except to the extent that such Lender's assignor (if any) was entitled, at the time of assignment, to receive additional amounts from the Company with respect to such Non-Excluded Taxes pursuant to this Section 3.10(a), or (iii) that are imposed as a result of any event occurring after such Lender becomes a Lender other than a change in law or regulation or the introduction of any law or regulation or a change in interpretation or administration of any law. Whenever any Non-Excluded Taxes are payable by the Company, as promptly as possible thereafter, the Company shall send to the Administrative Agent for its own account or for the account of the Issuing Lender or such Lender, as the case may be, a certified copy of an original official receipt showing payment thereof. If the Company fails to pay Non-Excluded Taxes when due to the appropriate taxing authority or fails to remit to the Administrative Agent the required receipts or other required documentary evidence, the Company shall indemnify the Administrative Agent, the Issuing Lender and the Lenders for any incremental taxes, interest or penalties that may become payable by the Administrative Agent, the Issuing Lender or such Lender as a result of any such failure together with any expenses payable by the Administrative Agent, the Issuing Lender or such Lender in connection therewith; provided that the Administrative Agent, Issuing Lender or such Lender has provided the Company with notice thereof as required by Section 10.01 hereof, accompanied by a demand for payment.

(b) If a Lender or the Administrative Agent becomes aware that it is entitled to claim a refund from a governmental authority in respect of any Non-Excluded Taxes as to which it has been indemnified by the Company or with respect to which the Company has paid additional amounts pursuant to this Section 3.10, it promptly shall notify the Company in writing of the availability of such refund claim and shall make a timely claim to such taxation authority for such refund at the Company's expense. If a Lender or the Administrative Agent receives a refund (including pursuant to a claim for refund made pursuant to the preceding sentence) or a permanent net tax benefit in respect of any Non-Excluded Taxes as to which it has been indemnified by the Company or with respect to which the Company has paid additional amounts pursuant to this Section 3.10, it shall within thirty (30) days from the date of such receipt pay over the amount of such refund or permanent net tax benefit to the Company, net of all reasonable out-of-pocket expenses of such Lender or the Administrative Agent and without interest (other than interest paid by the relevant taxation authority with respect to such refund); provided that the Company, upon the request of such Lender or the Administrative Agent, agrees to repay the amount paid over to the Company (plus penalties, interest or other reasonable charges) to such Lender or the Administrative Agent in the event such Lender or the Administrative Agent is required to repay such refund to such taxation authority or loses such net tax benefit.

(c) On or before the date on which it becomes a party to this Agreement, each Lender that is not organized under the laws of the United States or a state thereof agrees that it will deliver to the Company and the Administrative Agent (i) two duly completed copies of United States Internal Revenue Service Form W-8BEN or W-8ECI or successor applicable form,

as the case may be, certifying in each case that such Lender is entitled to receive payments under this Agreement without deduction or withholding of any United States federal income taxes, and (ii) if such Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, an Internal Revenue Service Form W-8BEN or successor applicable form, and a statement in the form of Exhibit G hereto. Each Lender that delivers to the Company and the Administrative Agent a Form W-8BEN or W-8ECI pursuant to the preceding sentence further undertakes to deliver to the Administrative Agent two further copies of the said statement and Form W-8BEN or W-8ECI, or successor applicable forms, or other manner of certification, as the case may be, on or before the date that any such statement or form expires or becomes obsolete or after the occurrence of any event requiring a change in the most recent statement or form previously delivered by it to the Administrative Agent, and such extensions or renewals thereof as may be requested by the Administrative Agent, certifying in the case of a Form W-8BEN or W-8ECI that such Lender is entitled to receive payments under this Agreement without deduction or withholding of any United States federal income taxes. Each Lender shall promptly notify the Company and the Administrative Agent at any time it determines that it is no longer in a position to provide any previously delivered above-mentioned form or statement (or successor thereto) to the Company and the Administrative Agent.

(d) For any period with respect to which a Lender required to do so has failed to provide the Company with the appropriate form described in Section 3.10(c) above (other than if such failure is due to a change in law occurring subsequent to the date on which a form originally was required to be provided, or if such form otherwise is not required under Section 3.10(c) above), such Lender shall not be entitled to indemnification under this Section 3.10 with respect to Non-Excluded Taxes imposed by reason of such failure; provided, however, that should a Lender become subject to Non-Excluded Taxes because of its failure to deliver a form required hereunder, the Company shall take such steps as such Lender reasonably shall request to assist such Lender in recovering such Non-Excluded Taxes.

Section 3.11 Pro Rata Treatment and Payments.

(a) Each borrowing by the Company from the Lenders, each conversion of a Revolving Credit Loan pursuant to Section 3.01(d) hereof or continuation of a Revolving Credit Loan pursuant to Section 3.01(e) hereof, each payment by the Company on account of any fee (other than with respect to fees which are expressly payable to the Administrative Agent or the Issuing Lender for its own account), and any reduction of the Commitments of the Lenders hereunder shall be made pro rata according to the respective relevant Commitment Proportions of the Lenders. Each reimbursement by the Company to the Issuing Lender with respect to drawings under Letters of Credit pursuant to Section 2.03 hereof shall be made pro rata for the benefit of the Lenders to the extent such Lender has made available its Commitment Proportion of such drawing in accordance with Section 2.03(b) hereof. Each payment (including each prepayment) by the Company on account of principal of and interest on each Loan shall be made pro rata according to the respective outstanding principal amounts of such Loans held by each Lender. Except as otherwise provided in Section 2.04 hereof, all payments by the Company on account of principal of and interest on any Swingline Loan shall be made to the Swingline Lender at its office specified on its signature page hereof in Dollars in immediately available funds. All payments (including prepayments) to be made by the Company on account of principal, interest, fees and reimbursement obligations shall be made without set-off or

counterclaim and, with respect to payments of the Loans shall be made to the Administrative Agent, for the account of the Lenders (except as specified above), at the Payment Office in Dollars in immediately available funds. The Administrative Agent shall distribute such payments with respect to Loans to the Lenders promptly upon receipt in like funds by wire transfer of each Lender's portion of such payment to such Lender for the account of its Lending Office. The Administrative Agent may, in its sole discretion, directly charge principal and interest payments due in respect of the Loans to the Company's accounts at the Payment Office or other office of the Administrative Agent. The Issuing Lender may, in its sole discretion, directly charge reimbursement obligations with respect to Letters of Credit to the Company's accounts at any office of the Issuing Lender. Except as otherwise provided in the definition of "Interest Period", if any payment hereunder becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day, and, with respect to payments of principal, interest thereon shall be payable at the then applicable rate during such extension.

Section 3.12 Funding and Disbursement of Loans.

(a) Each Lender shall make each Revolving Credit Loan to be made by it hereunder available to the Administrative Agent at the Payment Office for the account of such office and the Administrative Agent by 1:00 p.m. New York, New York time on the Borrowing Date in Dollars in immediately available funds. Unless any applicable condition specified in Article V has not been satisfied, the amount so received by the Administrative Agent will be made available to the Company at the Payment Office by crediting the account of the Company with such amount and in like funds as received by the Administrative Agent; provided, however, that if the proceeds of any Revolving Credit Loan or Swingline Loan or any portion thereof are to be used to prepay outstanding Revolving Credit Loans, Swingline Loans or Letter of Credit obligations, then the Administrative Agent shall apply such proceeds for such purpose to the extent necessary and credit the balance, if any, to the Company's account.

(b) Unless the Administrative Agent shall have been notified in writing by any Lender prior to a proposed Borrowing Date that such Lender is affected by the events or circumstances described in Section 3.05(b), 3.06, 3.07 or 3.10 hereof and that such Lender will not make the amount which would constitute its Commitment Proportion of the borrowing on such Borrowing Date available to the Administrative Agent, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on such Borrowing Date, and the Administrative Agent may, in reliance upon such assumption, make available to the Company a corresponding amount. If such amount is not made available to the Administrative Agent until a date after such Borrowing Date, such Lender shall pay to the Administrative Agent on demand interest on such Lender's Commitment Proportion of such borrowing at a rate equal to the greater of (i) the daily average Federal Funds Rate and (ii) a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation during such period, from and including such Borrowing Date to the date on which such Lender's Commitment Proportion of such borrowing shall have become immediately available to the Administrative Agent. A certificate of the Administrative Agent submitted to any Lender with respect to any amounts due pursuant to this Section 3.12(b) shall be conclusive absent demonstrable error. Nothing herein shall be deemed to relieve any Lender from its

obligations to fulfill its commitment hereunder or to prejudice any right which the Company may have against any Lender as a result of any default by such Lender hereunder.

**ARTICLE IV.
REPRESENTATIONS AND WARRANTIES**

In order to induce the Lenders to enter into this Agreement and to make the Loans herein provided for, the Company represents and warrants to the Administrative Agent and each Lender that:

Section 4.01 Organization, Powers.

The Company and each Guarantor (a) is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, (b) has the corporate power and authority to own its properties and to carry on its business as being conducted, (c) is in good standing and is duly qualified to do business in every jurisdiction wherein the conduct of its business or the ownership of its properties are such as to require such qualification except those jurisdictions in which the failure to be so qualified could not reasonably be expected to have a Material Adverse Effect, and (d) has the corporate power to execute, deliver and perform each of the Loan Documents to which it is a party, including, without limitation, the power to obtain extensions of credit hereunder and to execute and deliver the Notes. Each Subsidiary of the Company which is not a Guarantor, other than Excluded Subsidiaries, (a) is a corporation, limited liability company, partnership or other legal entity (as indicated on Schedule I hereto) duly organized or formed, as applicable, validly existing and in good standing under the laws of the jurisdiction of its formation, (b) has the corporate, limited partnership, limited liability company or other legal power and authority to own or lease its properties and to carry on its business as being conducted on the Closing Date and, (c) is duly qualified to do business in every jurisdiction wherein the conduct of its business or the ownership of its properties are such as to require such qualification except in those jurisdictions where the failure to be so qualified could not reasonably be expected to have a Material Adverse Effect.

Section 4.02 Authorization of Borrowing, Enforceable Obligations.

The execution, delivery and performance by the Company of this Agreement, and the other Loan Documents to which it is a party, the borrowings and the other extensions of credit to the Company hereunder, and the execution, delivery and performance by each Guarantor of the Loan Documents to which such Guarantor is a party, (a) have been duly authorized by all requisite corporate, limited partnership or limited liability company action, (b) will not violate or require any consent (other than consents as have been made or obtained and which are in full force and effect) under (i) any provision of law applicable to the Company or any Guarantor, any applicable rule or regulation of any Governmental Authority, or the Certificate of Incorporation or By-laws of the Company or the Certificate of Incorporation, By-Laws, or other organizational documents, as applicable, of any Guarantor or (ii) any order of any court or other Governmental Authority binding on the Company or any Guarantor or any indenture, agreement or other instrument to which the Company or any Guarantor is a party, or by which the Company or any Guarantor or any of its property is bound and (c) will not be in conflict with, result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement

or other instrument, which conflict, breach or default could reasonably be expected to have a Material Adverse Effect, or result in the creation or imposition of any Lien of any nature whatsoever upon any of the property or assets of the Company or any Guarantor other than as contemplated by this Agreement or the other Loan Documents. This Agreement and each other Loan Document to which the Company or any Guarantor is a party constitutes a legal, valid and binding obligation of the Company and each such Guarantor, as the case may be, enforceable against the Company and each such Guarantor, as the case may be, in accordance with its terms except to the extent that enforcement may be limited by applicable bankruptcy, reorganization, moratorium, insolvency and similar laws affecting creditors' rights generally or by equitable principles of general application, regardless of whether considered in a proceeding in equity or at law.

Section 4.03 Financial Condition.

(a) The Company has heretofore furnished to each Lender (i) the audited consolidated balance sheet of the Company and its Subsidiaries and the related consolidated statements of income, retained earnings and cash flow of the Company and its Subsidiaries, audited by Ernst & Young LLP, independent auditors, for the fiscal year ended June 30, 2005 and (ii) the unaudited consolidated balance sheet of the Company and its Subsidiaries and the related consolidated statements of income, retained earnings and cash flow of the Company and its Subsidiaries for the six-month period ended December 31, 2005. The financial statements for the year ended June 30, 2005, referred to in clause (i) above, were prepared in conformity with Generally Accepted Accounting Principles, and the financial statements for the fiscal quarter and six-month period ended December 31, 2005, referred to in clause (ii) above, were prepared in conformity with Generally Accepted Accounting Principles, (subject to year-end adjustments and except for the absence of notes thereto), and, in each case, such financial statements fairly present the consolidated financial condition and consolidated results of operations of the Company and its Subsidiaries as of the date of such financial statements and for the periods to which they relate and since December 31, 2005 no Material Adverse Effect has occurred. The Company shall deliver to the Administrative Agent, a certificate of the Chief Financial Officer of the Company to that effect on the Closing Date. Since the later of (i) the date of the Current SEC Report or (ii) the date of the most recent pro forma financial statements delivered pursuant to Section 7.06 hereof relating to a completed acquisition, there are no obligations or liabilities, contingent or otherwise, of the Company or any of its Subsidiaries which are not reflected or disclosed on such audited statements, the Current SEC Report or such pro forma financial statements, other than obligations of the Company and its Subsidiaries incurred in the ordinary course of business.

(b) The Company and each of the Guarantors is Solvent.

Section 4.04 Taxes.

The Company and each Subsidiary of the Company has filed or has caused to be filed all tax returns (foreign, federal, state and local) required to be filed (including, without limitation, with respect to payroll and sales taxes) and the Company and each Subsidiary of the Company has paid all taxes (including, without limitation, all payroll and sales taxes), assessments and governmental charges and levies shown thereon to be due, including interest and penalties except

(a) where the failure to file such tax returns or pay such taxes, charges or levies could not reasonably be expected to have a Material Adverse Effect and (b) taxes, assessments and governmental charges and levies being contested in good faith by appropriate proceedings and with respect to which adequate reserves in conformity with Generally Accepted Accounting Principles consistently applied shall have been provided on the books of the Company and its Subsidiaries.

Section 4.05 **Title to Properties.**

The Company and each Subsidiary of the Company has good title to its respective properties and assets reflected on the financial statements referred to in Section 4.03 hereof, except for such properties and assets as have been disposed of since the date of such financial statements as no longer used or useful in the conduct of their respective businesses or as have been disposed of in the ordinary course of business, and all such properties and assets are free and clear of all Liens other than Permitted Liens.

Section 4.06 **Litigation.**

(a) Except as set forth on Schedule VI, there are no actions, suits or proceedings (whether or not purportedly on behalf of the Company or any Subsidiary of the Company) pending or, to the knowledge of the Company, threatened against or affecting the Company or any such Subsidiary at law or in equity or before or by any Governmental Authority, which involve any of the transactions contemplated herein or which could reasonably be expected to result in a Material Adverse Effect; and

(b) Neither the Company nor any Subsidiary of the Company is in default with respect to any judgment, writ, injunction, decree, rule or regulation of any Governmental Authority which could reasonably be expected to result in a Material Adverse Effect.

Section 4.07 **Agreements.**

Neither the Company nor any Subsidiary of the Company is in violation of or restricted by its charter or bylaws or in breach or violation of any judgment, order, writ, injunction, decree or regulation which could reasonably be expected to have a Material Adverse Effect. Neither the Company nor any Subsidiary of the Company is in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement, indenture, loan or credit agreement or any lease or other agreement or instrument to which it is a party, which default could reasonably be expected to have a Material Adverse Effect.

Section 4.08 **Compliance with ERISA.**

Except as set forth on Schedule VII, each Plan is in compliance in all material respects with ERISA; no Plan is insolvent or in reorganization (as defined in Section 4241 of ERISA), no Plan has an Unfunded Current Liability, and no Plan has an accumulated or waived funding deficiency within the meaning of Section 412 of the Code; neither the Company, any Subsidiary of the Company nor any ERISA Affiliate has incurred any material liability to or on account of a Plan pursuant to Section 515, 4062, 4063, 4064, 4201 or 4204 of ERISA or reasonably expects to incur any liability under any of the foregoing Sections on account of the prior termination of

participation in or contributions to any such Plan; no proceedings have been instituted to terminate any Plan; no condition exists which could reasonably be expected to present a risk to the Company, any Subsidiary of the Company or any ERISA Affiliate of incurring a liability to or on account of a Plan pursuant to the foregoing provisions of ERISA and the Code; and no lien imposed under the Code or ERISA on the assets of the Company, any Subsidiary of the Company or any of its ERISA Affiliates exists or to the knowledge of the Company is likely to arise on account of any Plan. The aggregate potential tax liabilities, fines and penalties related to the items included on Schedule VII would not have a Material Adverse Effect.

Section 4.09 **Federal Reserve Regulations; Use of Proceeds.**

(a) Neither the Company nor any Subsidiary of the Company is engaged principally in, nor has as one of its important activities, the business of extending credit for the purpose of purchasing or carrying any “margin stock” (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System of the United States, as amended from time to time).

(b) No part of the proceeds of any Loan and no other extension of credit hereunder will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, (i) to purchase or to carry margin stock or to extend credit to others for the purpose of purchasing or carrying margin stock, or to refund indebtedness originally incurred for such purposes, or (ii) for any purpose which violates or is inconsistent with the provisions of Regulation T, U, or X of the Board of Governors of the Federal Reserve System.

(c) The proceeds of each Loan, and each other extension of credit hereunder, shall be used solely for the purposes permitted under Section 3.02 hereof.

Section 4.10 **Approvals.**

No registration with or consent or approval of, or other action by, any Governmental Authority or any other Person is required in connection with the execution, delivery and performance of this Agreement by the Company or any Guarantor, or with the execution, delivery and performance of any other Loan Documents to which it is a party or, with respect to the Company, the borrowings and each other extension of credit hereunder other than registrations, consents and approvals received prior to the date hereof and disclosed to the Lenders and which are in full force and effect or such registrations, consents and approvals required pursuant to Section 5.01 hereof.

Section 4.11 **Subsidiaries and Affiliates.**

Attached hereto as Schedule I is a correct and complete list of each of the Company's Subsidiaries and Affiliates (other than individuals) as of the Closing Date showing as to each Subsidiary and Affiliate (other than individuals), its name, the jurisdiction of its incorporation or formation, its shareholders or other owners of an interest in each Subsidiary and Affiliate (other than individuals) and the number of outstanding shares or other ownership interests owned by each shareholder or other owner of an interest.

Section 4.12 **Hazardous Materials.**

The Company and each Subsidiary are in compliance in all material respects with all applicable Environmental Laws and neither the Company nor any Subsidiary has used Hazardous Materials on, from, or affecting any property now owned or occupied or hereafter owned or occupied by the Company or any such Subsidiary in any manner which violates any applicable Environmental Law. No prior owner of any such property or any tenant, subtenant, prior tenant or prior subtenant have used Hazardous Materials on, from, or affecting such property in any manner which violates any applicable Environmental Law.

Section 4.13 **Investment Company Act.**

Neither the Company nor any Subsidiary of the Company is an "investment company", or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended.

Section 4.14 **No Default.**

No Default or Event of Default has occurred and is continuing.

Section 4.15 **Credit Arrangements.**

Schedule V hereto is a complete and correct list of all material credit agreements, indentures, guaranties, Capital Leases and other investments, agreements and arrangements relating to borrowed money in effect on the Closing Date providing for or relating to extensions of credit to the Company or any Subsidiaries of the Company, or any of them (including agreements and arrangements for the issuance of letters of credit or for acceptance financing) in respect of which the Company or any Subsidiaries of the Company, or any of them, are in any

manner directly or contingently obligated; and the maximum principal or face amounts of the credit in question, outstanding and which can be outstanding, are correctly stated, and all Liens of any nature given or agreed to be given as security therefor are correctly described or indicated in such Schedule.

Section 4.16 **Permits and Licenses.**

The Company and each Subsidiary of the Company each has all permits, licenses, certifications, authorizations and approvals required for it lawfully to own and operate their respective businesses except those the failure of which to have could not reasonably be expected to have a Material Adverse Effect.

Section 4.17 **Compliance with Law.**

The Company and each Subsidiary of the Company are each in compliance with all laws, rules, regulations, orders and decrees which are applicable to the Company or any such Subsidiary, or to any of their respective properties, which the failure to comply with could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 4.18 **Disclosure.**

Neither this Agreement, any other Loan Document, nor any other document, certificate or written statement furnished to the Administrative Agent, the Issuing Lender, or any Lender by or on behalf of the Company or any of its Subsidiaries for use in connection with the transactions contemplated by this Agreement contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements contained herein or therein not misleading in light of the circumstances in which they were made.

Section 4.19 **Labor Disputes and Acts of God.**

Neither the business nor the properties of the Company or any Subsidiary of the Company is (i) engaged in any strike, lockout or other labor dispute or (ii) currently affected by or subject to any fire, explosion, accident, drought, storm, earthquake, embargo, act of God or other casualty (whether or not covered by insurance), which could reasonably be expected to have a Material Adverse Effect.

**ARTICLE V.
CONDITIONS OF LENDING**

Section 5.01 **Conditions to Initial Extension of Credit.**

The obligation of each Lender to make its initial Loan hereunder, and the obligation of the Issuing Lender to issue the initial Letter of Credit, are subject to the following conditions precedent:

(a) Notes. On or prior to the Closing Date, the Administrative Agent shall have received (i) for the account of each Lender, a Revolving Credit Note (and the

Administrative Agent shall promptly provide such Notes to the Lenders) and (ii) for the account of the Swingline Lender, a Swingline Note, each duly executed by the Company.

(b) Reaffirmation of Guaranty. On or prior to the Closing Date, the Administrative Agent shall have received, with a counterpart for each Lender, a Reaffirmation of Guaranty duly executed by each Guarantor that has executed a Guaranty or Reaffirmation of Guaranty in connection with the 2004 Credit Agreement or subsequent to the effective date of the 2004 Credit Agreement, as the case may be.

(c) Opinion of Counsel. On or prior to the Closing Date, the Administrative Agent shall have received a written opinion of Cahill Gordon & Reindel LLP, counsel for the Company and the Guarantors, substantially in the form of Exhibit F attached hereto.

(d) Supporting Documents. On or prior to the Closing Date, the Administrative Agent shall have received (i) a certificate of good standing for the Company and each Guarantor from the secretary of state of the states of their organizational jurisdiction dated as of a recent date; (ii) certified copies of the Certificate of Incorporation and By-laws or other organization documents, as applicable of the Company and each Guarantor; and (iii) a certificate of the Secretary or an Assistant Secretary of the Company and each Guarantor dated the Closing Date and certifying: (x) that neither the Certificates of Incorporation nor the By-laws of the Company or of any Guarantor has been amended since the date of their certification (or if there has been any such amendment, attaching a certified copy thereof); (y) that attached thereto is a true and complete copy of resolutions adopted by the Board of Directors of the Company and by the board of directors or other governing body or Persons of each Guarantor authorizing the execution, delivery and performance of each Loan Document to which it is a party and, with respect to the Company, the borrowings and other extensions of credit hereunder; and (z) the incumbency and specimen signature of each officer of the Company and of each officer or other authorized Person of each Guarantor executing each Loan Document to which the Company or any Guarantor is a party and any certificates or instruments furnished pursuant hereto or thereto, and a certification by another officer of the Company and each Guarantor as to the incumbency and signature of the Secretary or Assistant Secretary of the Company and each Guarantor.

(e) Insurance. On or prior to the Closing Date, the Administrative Agent shall have received a certificate or certificates of insurance from an independent insurance broker or brokers confirming the insurance required to be maintained pursuant to Section 6.01 hereof.

(f) Fees and Expenses. On or prior to the Closing Date, the Lenders shall have received all fees that may be payable to them pursuant to this Agreement, including the upfront fee referred to in Section 3.04(e) hereof, and reimbursement of expenses in accordance with Section 10.03(b) hereof.

(g) No Litigation. Except as set forth in Schedule VI hereto, there shall exist no action, suit, investigation, litigation or proceeding affecting the Company or any of its Subsidiaries pending or, to the knowledge of the Company, threatened before any court, governmental agency or arbiter that could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(h) Consents and Approvals. Except to the extent the failure to obtain any consents or approvals, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect, all governmental and third party consents and approvals necessary in connection with the transactions contemplated by this Agreement and the other Loan Documents shall have been obtained (without the imposition of any conditions that are not reasonably acceptable to the Required Lenders) and shall remain in effect, and no law or regulation shall be applicable in the reasonable judgment of the Required Lenders that imposes materially adverse conditions upon the transactions contemplated hereby.

(i) No Material Adverse Changes. There shall not have occurred any material adverse change in the business, operations, properties or condition (financial or otherwise) of the Company or any Guarantor, since December 31, 2005.

(j) Financial Statements. The Lenders shall have received the audited consolidated financial statements of the Company and its Subsidiaries for the fiscal year ended June 30, 2005; together with the management prepared consolidated financial statements of the Company and its Subsidiaries for the fiscal quarter and six-month period ended December 31, 2005.

(k) Management Letters. To the extent any exist and have not been previously provided to the Administrative Agent, the Administrative Agent shall have received a copy of the most recent management letter prepared on behalf of the Company by the Auditor, a copy of which shall be forwarded by the Administrative Agent to each Lender.

(l) Other Information, Documentation. The Administrative Agent and the Lenders shall have received such other and further information and documentation as any of them may reasonably require, including, but not limited to, any information or documentation relating to compliance by the Company and each Subsidiary of the Company with the requirements of all Environmental Laws.

(m) Completion of Proceedings. All corporate and other proceedings, and all documents, instruments and other legal matters in connection with the transactions contemplated by the Loan Documents, shall be reasonably satisfactory in form and substance to the Administrative Agent, the Lenders and their counsel.

Section 5.02 Conditions to Extensions of Credit

The obligation of each Lender to make each Loan hereunder and the obligation of the Issuing Lender to issue, amend, renew or extend any Letter of Credit, including, without limitation, the initial Loan and initial Letter of Credit, are further subject to the following conditions precedent:

(a) Representations and Warranties. The representations and warranties by the Company and each Guarantor pursuant to this Agreement and the other Loan Documents to which each is a party shall be true and correct in all material respects on and as of the Borrowing Date or the date of issuance, amendment, renewal or extension of such Letter of Credit, as applicable, with the same effect as though such representations and warranties had been made on

and as of such date unless such representation is as of a specific date, in which case, as of such date.

(b) No Default. No Default or Event of Default shall have occurred and be continuing on the Borrowing Date or on the date of issuance, amendment, renewal or extension of a Letter of Credit or will result after giving effect to the Loan requested or the requested issuance, amendment, renewal or extension of a Letter of Credit.

(c) Letter of Credit Documentation. With respect to the issuance, amendment, renewal or extension of any Letter of Credit, the Issuing Lender shall have received the documents and instruments requested by the Issuing Lender in accordance with Section 2.03(a) hereof.

Each borrowing hereunder and each issuance, amendment, renewal or extension of a Letter of Credit shall constitute a representation and warranty of the Company that the statements contained in clauses (a), (b), and (c) of this Section 5.02 are true and correct on and as of the Borrowing Date or as of the date of issuance, amendment, renewal or extension of a Letter of Credit, as applicable, as though such representation and warranty had been made on and as of such date.

ARTICLE VI.
AFFIRMATIVE COVENANTS

The Company covenants and agrees with the Lenders that so long as the Commitments remain in effect, or any of the principal of or interest on the Notes or any other Obligations hereunder shall be unpaid it will, and will cause each of its Domestic and Non-Domestic Subsidiaries, to:

Section 6.01 **Existence, Properties, Insurance.**

Do or cause to be done all things necessary to preserve and keep in full force and effect its corporate, partnership or limited liability company, as applicable, existence, rights and franchises and comply in all material respects with all laws applicable to it; at all times maintain, preserve, protect or renew all franchises, trade names, patents, trademarks and service marks and preserve all of its property, in each case, material to its business and keep the same in good repair, working order and condition (normal wear and tear excepted) and from time to time make, or cause to be made, all needful and proper repairs, renewals, replacements, betterments and improvements thereto so that the business carried on in connection therewith may be properly and advantageously conducted in the ordinary course at all times in the manner and custom of similar businesses; at all times, preserve and maintain in full force and effect all governmental rights, privileges, qualifications, permits, licenses and franchises necessary for the normal conduct of its business; and at all times maintain insurance covering its assets and its businesses with financially sound and reputable insurance companies or associations in such amounts and against such risks (including, without limitation, hazard, business interruption, public liability and product liability) as are usually carried by companies engaged in the same or similar business. Notwithstanding the foregoing to the contrary, Excluded Subsidiaries shall not be subject to the restrictions set forth in this Section 6.01 to the extent that the Company intends

to dissolve, wind-up, liquidate or otherwise terminate the existence of such Excluded Subsidiaries, which actions would otherwise be in violation of this Section 6.01.

Section 6.02 Payment of Indebtedness and Taxes.

(a) Pay all indebtedness and obligations, now existing or hereafter arising, as and when due and payable and (b) pay and discharge or cause to be paid and discharged promptly all taxes, assessments and government charges or levies imposed upon it or upon its income and profits, or upon any of its property, real, personal or mixed, or upon any part thereof, as and when due and payable, as well as all lawful claims for labor, materials and supplies or otherwise which, if unpaid, might become a lien or charge upon such properties or any part thereof; provided, however, that neither the Company nor any Subsidiary of the Company shall be required to pay and discharge or cause to be paid and discharged any such tax, assessment, charge, levy or claim so long as the validity thereof shall be contested in good faith by appropriate proceedings, and the Company or such Subsidiary, as the case may be, shall have set aside on its books adequate reserves determined in accordance with Generally Accepted Accounting Principles with respect to any such tax, assessment, charge, levy or claim so contested; further, provided that, subject to the foregoing proviso, the Company and each Subsidiary of the Company will pay or cause to be paid all such taxes, assessments, charges, levies or claims upon the commencement of proceedings to foreclose any lien which has attached as security therefor.

Section 6.03 Financial Statements, Reports, etc.

Furnish to the Administrative Agent (with sufficient copies for each Lender, and the Administrative Agent shall promptly furnish a copy thereof to each Lender):

(a) as soon as available and in any event within ninety (90) days of the end of the fiscal year of the Company, the audited consolidated financial statements of the Company and its Subsidiaries which shall include the consolidated balance sheet of the Company and its Subsidiaries as of the end of such fiscal year, together with the consolidated statement of income and statement of cash flows for the Company and its Subsidiaries for such fiscal year and as of the end of and for the prior fiscal year, all prepared in accordance with Generally Accepted Accounting Principles and accompanied by an opinion thereon of Ernst & Young LLP or other nationally recognized independent certified public accountants reasonably acceptable to the Lenders (the "Auditor") which opinion shall not include a going concern explanatory paragraph, a qualification as to Generally Accepted Accounting Principles or like qualification or exception or a qualification or exception as to the scope of the audit, together with a report of the Chief Financial Officer of the Company setting forth with respect to each brand of the Company and its Subsidiaries, the gross revenue and Net Direct Contributions, in form and substance satisfactory to the Lenders;

(b) as soon as available and in any event within forty-five (45) days after the end of each of the first, second and third fiscal quarters of the Company, the unaudited consolidated financial statements of the Company and its Subsidiaries, which shall include the unaudited consolidated balance sheet of the Company and its Subsidiaries as of the end of each such quarter, together with the consolidated statement of income and statement of cash flows of

the Company and its Subsidiaries for each such quarter and for the period commencing at the end of the previous fiscal year and ending with the end of such quarter, all in reasonable detail stating in comparative form the respective figures for the corresponding date and period in the previous fiscal year, all prepared by or under the supervision of the Chief Financial Officer of the Company in accordance with Generally Accepted Accounting Principles (subject to year-end adjustments and except for the absence of notes thereto), and, commencing with the period ending June 30, 2006 and each quarter thereafter, a report of the Chief Financial Officer of the Company setting forth with respect to each brand of the Company and its Subsidiaries, the gross revenue and Net Direct Contributions, in form and substance satisfactory to the Lenders;

(c) a certificate prepared and signed by the Auditor with each delivery required by clause (a) and a certificate prepared and signed by the Chief Financial Officer with each delivery required by clause (a) and (b), stating whether the Auditor or Chief Financial Officer, as the case may be, shall have obtained knowledge of any Default or Event of Default, together with a certificate of the Chief Financial Officer of the Company demonstrating that as of the last day of the relevant fiscal year or quarter, as applicable, the Company was in compliance with the financial condition covenants set forth in Section 7.13 hereof;

(d) at all times indicated in clause (a) above, copies of the Company's annual financial projections, on a quarterly basis with respect to the next succeeding fiscal year, in reasonable detail and in form and substance reasonably satisfactory to the Required Lenders (it being recognized by the Administrative Agent and the Lenders that future results included in such projections shall not be viewed as facts and that actual results may differ from projected results);

(e) promptly after filing thereof, copies of all financial statements and reports that the Company sends to its shareholders, and copies of all regular, periodic and special financial information, proxy materials, reports and other information which the Company or any Guarantor shall file with the Securities and Exchange Commission;

(f) promptly after submission to any government or regulatory agency, all documents and information furnished to such government or regulatory agency other than such documents and information prepared in the normal course of business and which could not reasonably be expected to result in a Material Adverse Effect; and

(g) promptly, from time to time, such other information regarding the operations, business affairs and condition (financial or otherwise) of the Company or any Subsidiary of the Company as any Lender may reasonably request.

Section 6.04 Books and Records; Access to Premises.

(a) Maintain adequate records and proper books of record and account in which full, true and correct entries will be made in a manner to enable the preparation of financial statements in accordance with Generally Accepted Accounting Principles, and which shall reflect all financial transactions of the Company and each of its Subsidiaries and matters involving the assets and business of the Company and such Subsidiaries.

(b) At any time and from time to time during normal business hours (and provided that no Default or Event of Default has occurred and is continuing upon reasonable prior notice) permit any Lender or any agents or representatives thereof to examine and make abstracts from the books and records of such information which such Lender deems is necessary or desirable (including, without limitation, the financial records of the Company and its Subsidiaries, but excluding information governed by a written confidentiality agreement which prohibits such access), and to visit the properties of the Company or any of its Subsidiaries and to discuss the affairs, finances and accounts of the Company or any of its Subsidiaries with any of their respective executive officers or the Company's independent accountants. Notice of Adverse Change.

Section 6.05 **Notice of Adverse Change.**

Promptly notify the Administrative Agent (and the Administrative Agent shall promptly notify each Lender) in writing of (a) any change in the business or the operations of the Company or its Subsidiaries which could reasonably be expected to have a Material Adverse Effect, and (b) any information which indicates that any financial statements which are the subject of any representation contained in this Agreement, or which are furnished to the Administrative Agent or the Lenders pursuant to this Agreement, fail to present fairly, as of the date thereof and for the period covered thereby, the financial condition and results of operations purported to be presented therein, disclosing the nature thereof.

Section 6.06 **Notice of Default.**

Promptly notify the Administrative Agent (and the Administrative Agent shall promptly notify each Lender) of any Default or Event of Default which shall have occurred or the occurrence or existence of any event or circumstance that in the reasonable judgment of the Company is likely to become a Default or Event of Default, which notice shall include a written statement as to such occurrence, specifying the nature thereof and the action (if any) which is proposed to be taken with respect thereto.

Section 6.07 **Notice of Litigation.**

Promptly notify the Administrative Agent (and the Administrative Agent shall promptly notify each Lender) of any action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency which could reasonably be expected to have a Material Adverse Effect.

Section 6.08 **Notice of Default in Other Agreements.**

Promptly notify the Administrative Agent (and the Administrative Agent shall promptly notify each Lender) of any default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which the Company or any Subsidiary of the Company is a party which default could reasonably be expected to have a Material Adverse Effect.

Section 6.09 **Notice of ERISA Event.**

Promptly after the Company or any Guarantor knows any of the following, deliver to the Administrative Agent a certificate of the Chief Financial Officer of the Company setting forth details as to the occurrence and the action, if any, which the Company, such Guarantor or any ERISA Affiliate is required or proposes to take, together with any notices required or proposed to be given to or filed with or by the Company, such Guarantor, such ERISA Affiliate, the PBGC, a Plan participant or the Plan administrator, with respect thereto; that a Reportable Event has occurred with respect to a Plan, that an accumulated funding deficiency (as defined in Section 412 of the Code) has been incurred or an application may be or has been made to the Secretary of the Treasury for a waiver or modification of the minimum funding standard (including any required installment payments) or an extension of any amortization period under Section 412 of the Code with respect to a Plan that is a Single Employer Plan (within the

meaning of Section 4001(a)(15) of ERISA), that a Plan has been terminated, reorganized, partitioned or declared insolvent under Title IV of ERISA, that one or more Plans that are Single Employer Plans (within the meaning of Section 4001(a)(15) of ERISA) have an Unfunded Current Liability, that proceedings may be or have been instituted to terminate a Plan, that a proceeding has been instituted pursuant to Section 515 of ERISA to collect a delinquent contribution to a Plan, or that the Company, any Guarantor or any ERISA Affiliate will incur any liability (including any contingent or secondary liability) to or on account of the termination of or withdrawal from a Plan under Section 4062, 4063, 4064, 4201 or 4204 of ERISA. Upon request of any Lender, the Company will deliver to each Lender a complete copy of the annual report (Form 5500) of each Plan that is a Single Employer Plan (within the meaning of Section 4001(a)(15) of ERISA), filed with the Internal Revenue Service. In addition to any certificates or notices delivered to each Lender pursuant to the first sentence hereof, copies of any other notices received by the Company or any Guarantor required to be delivered to each Lender hereunder shall be delivered to each Lender no later than ten days after the later of the date such report or notice has been filed with the Internal Revenue Service or the PBGC, given to Plan participants or received by the Company or any Guarantor.

Section 6.10 Notice of Environmental Law Violations.

Promptly notify the Administrative Agent of the receipt of any notice of an action, suit, or proceeding before any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, pending against the Company or any Subsidiary of the Company relating to any alleged violation of any Environmental Law which could reasonably be expected to have a Material Adverse Effect.

Section 6.11 Compliance with Applicable Laws.

Comply with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority, the breach of which could reasonably be expected to have a Material Adverse Effect, including, without limitation, the rules and regulations of the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation.

Section 6.12 Additional Subsidiaries.

Give the Administrative Agent prompt written notice of the creation, establishment or acquisition, in any manner, of any Subsidiary of the Company not existing on the Closing Date or of the fact that a Subsidiary has ceased to be an Excluded Subsidiary. The Company or a Domestic Subsidiary, as appropriate shall cause each Subsidiary of such Person which is a Domestic Subsidiary and which is neither a Subsidiary that is not a Guarantor on the Closing Date nor an Excluded Subsidiary to execute a Guaranty, in the form of Exhibit C hereto within fifteen (15) Business Days after the creation, establishment or acquisition of such Subsidiary or of the date such Subsidiary ceases to be an Excluded Subsidiary and in connection therewith shall deliver or cause to be delivered such proof of corporate action, incumbency of officers, opinions of counsel and other documents as are consistent with those delivered as to each Subsidiary pursuant to Section 5.01 hereof on the Closing Date, or as the Administrative Agent may request, each in form and substance satisfactory to the Administrative Agent.

Section 6.13 **Environmental Laws.**

Comply in all material respects with the requirements of all applicable Environmental Laws, provide to the Lenders all documentation in connection with such compliance that any of the Lenders may reasonably request, and defend, indemnify, and hold harmless the Administrative Agent and each Lender and their respective employees, agents, officers, and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to, (a) the presence, disposal, or release of any Hazardous Materials on any property at any time owned or occupied by the Company or any Subsidiary of the Company, (b) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials, (c) any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Materials, and/or (d) any violation of applicable Environmental Laws, including, without limitation, reasonable attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses.

Section 6.14 **Management Letters.**

Deliver to the Administrative Agent (and the Administrative Agent shall promptly deliver a copy to each Lender), as soon as available, but in any event within seven (7) Business Days of any such letter being issued, a copy of the management letter addressed to the Company by the Auditor.

ARTICLE VII.
NEGATIVE COVENANTS

The Company covenants and agrees with the Lenders that so long as the Commitments remain in effect or any of the principal of or interest on any Note or any other Obligations hereunder shall be unpaid, it will not, and will not cause or permit any of its Domestic Subsidiaries or Non-Domestic Subsidiaries, directly or indirectly, to:

Section 7.01 **Indebtedness.**

Incur, create, assume or suffer to exist or otherwise become liable in respect of any Indebtedness, other than:

(a) Indebtedness incurred prior to the date hereof as described in Schedule III attached hereto (which is not described in Section 7.01(b) through Section 7.01(k) hereof), but not including any renewals or extensions thereof, and the Private Placement Notes;

(b) Indebtedness to the Lenders under this Agreement, the Notes or any other Loan Document;

(c) Indebtedness for trade payables incurred in the ordinary course of business provided such payables shall be paid or discharged in conformity with customary practice in the trade, consistent with past practice;

(d) Indebtedness consisting of guarantees permitted pursuant to Section 7.03 hereof;

(e) subject to Section 7.06 hereof, Subordinated Indebtedness incurred in connection with Acceptable Acquisitions; provided, however, that no Default or Event of Default shall have occurred and be continuing at the time of incurrence thereof or would occur after giving effect to the incurrence of such Subordinated Indebtedness;

(f) Indebtedness secured by purchase money liens as permitted under Section 7.02(h) hereof or by mortgages on the real property of the Company or any of its Subsidiaries, and Indebtedness arising under Capital Leases; provided, that the aggregate amount of such Indebtedness at no time shall exceed 10% of the Company's Consolidated Net Worth, determined as of the end of the most recently completed fiscal quarter of the Company, in accordance with Generally Acceptable Accounting Principles; and provided, further, that no Default or Event of Default shall have occurred and be continuing or would occur after giving effect to the incurrence of such Indebtedness;

(g) Indebtedness with respect to Hedging Agreements entered into by the Company, provided that such Hedging Agreements shall be entered into in the ordinary course of its business with respect to its business needs and not for speculative purposes;

(h) Indebtedness arising under or with respect to foreign exchange contracts entered into by the Company for the purchase or sale of foreign currency for the account of the Company or the Guarantors, provided that such foreign exchange contracts shall be entered into in the ordinary course of its business with respect to its business needs and not for speculative purposes;

(i) Indebtedness for taxes, assessments or other governmental charges or levies not yet delinquent or which are being contested in good faith by appropriate proceedings; provided, however, that adequate reserves with respect thereto are maintained on the books of the Company or any Subsidiary of the Company in accordance with Generally Accepted Accounting Principles;

(j) Indebtedness owing by (i) the Company to any Subsidiary of the Company or (ii) any Subsidiary of the Company to the Company or any other Subsidiary, to the extent that such Indebtedness is otherwise permitted pursuant to the terms and conditions of this Agreement; and

(k) Indebtedness not otherwise provided for in Section 7.01(a) through 7.01(j) hereof in an aggregate amount not to exceed 5% of the Company's Consolidated Net Worth, determined as of the end of the most recently completed fiscal quarter of the Company in accordance with Generally Acceptable Accounting Principles, at any time outstanding.

Section 7.02 Liens.

Incur, create, make, assume or suffer to exist any Lien on any of their respective assets now or hereafter owned, other than:

- (a) Liens existing on the date hereof as set forth on Schedule II attached hereto (which are not described in Section 7.02(b) through 7.02(k) hereof), but not including any renewals or extensions thereof;
- (b) Liens securing Indebtedness described in Section 7.01(i) hereof, provided that no notice of lien has been filed or recorded under the Code;
- (c) carriers', warehousemen's, mechanics', suppliers' or other like Liens arising in the ordinary course of business and not overdue for a period of more than thirty (30) days or which are being contested in good faith and by appropriate proceedings, which proceedings have the effect of preventing the forfeiture or sale of the property subject thereto;
- (d) Liens incurred or deposits to secure (i) the non-delinquent performance of tenders, bids, trade contracts (other than for borrowed money), leases, statutory obligations, (ii) contingent obligations on surety, performance and appeal bonds, and (iii) other non-delinquent obligations of similar nature; in each case, incurred in the ordinary course of business;
- (e) any attachment, judgment or similar Lien arising in connection with any court or governmental proceeding provided that the execution or other enforcement of such Lien is effectively stayed within thirty (30) days after the entry thereof;
- (f) easements, rights of way, restrictions and other similar charges or encumbrances incurred in the ordinary course of business which, in the aggregate, do not interfere in any material respect with the occupation, use and enjoyment by the Company or any Subsidiary of the Company of the property or assets encumbered thereby in the normal course of their respective business or materially impair the value of the property subject thereto;
- (g) deposits or pledges required in the ordinary course of business in connection with workmen's compensation, unemployment insurance and other social security laws;
- (h) purchase money Liens for fixed or capital assets acquired or held by the Company or its Subsidiaries in the ordinary course of business, securing Indebtedness permitted pursuant to Section 7.01(f) hereof; provided in each case (i) no Default or Event of Default shall have occurred and be continuing at the time such Lien is created or shall occur after giving effect to such Lien, (ii) such purchase money lien does not exceed 100% of the purchase price of, and encumbers only, the property acquired, and (iii) such purchase money Lien does not secure any Indebtedness other than in respect of the purchase price of the asset acquired;
- (i) Liens in favor of banks or other depository institutions upon property or assets of the Company or any of its Subsidiaries arising under the common law or pursuant to contractual rights of set off;

(j) Liens on real property of the Company or any of its Subsidiaries securing Indebtedness permitted by Section 7.01(f) hereof, provided the Lien is specifically limited to such real property; and

(k) Liens securing the Indebtedness permitted by Section 7.01(k) hereof, provided such liens secure only such Indebtedness.

Section 7.03 Guaranties.

Guarantee, endorse, become surety for, or otherwise in any way become or be responsible for the Indebtedness or obligations of any Person, whether by agreement to maintain working capital or equity capital or otherwise maintain the net worth or solvency of any Person or by agreement to purchase the Indebtedness of any other Person, or agreement for the furnishing of funds, directly or indirectly, through the purchase of goods, supplies or services for the purpose of discharging the Indebtedness of any other Person or otherwise, or enter into or be a party to any contract for the purchase of merchandise, materials, supplies or other property if such contract provides that payment for such merchandise, materials, supplies or other property shall be made regardless of whether delivery of such merchandise, supplies or other property is ever made or tendered except:

(a) guaranties executed prior to the date hereof as described on Schedule IV attached hereto (which are not described in Sections 7.03(b) through 7.03(d) hereof), but not including any renewals or extensions thereof;

(b) endorsements of negotiable instruments for collection or deposit in the ordinary course of business;

(c) guaranties of any Indebtedness under this Agreement or any other Loan Document; and

(d) guaranties by the Company of any Indebtedness permitted pursuant to Section 7.01 hereof of any Subsidiary of the Company or guaranties by any Subsidiary of the Company of such Indebtedness of the Company or any other Subsidiary of the Company

Section 7.04 Sale of Assets.

Sell, lease, assign, transfer or otherwise dispose of their now owned or hereafter acquired respective properties and assets, whether or not pursuant to an order of a federal agency or commission, except for (a) the sale of inventory disposed of in the ordinary course of business, (b) the sale or other disposition of properties or assets no longer used or useful in the conduct of their respective businesses, (c) the transfer of Intellectual Property to an IP Subsidiary, (d) a transfer from the Company or any direct or indirect wholly-owned Guarantor to the Company or another direct or indirect wholly-owned Guarantor, (e) an arrangement, directly or indirectly, with any Person whereby it shall sell or transfer any property, whether real or personal, used or useful in its business, whether now owned or hereafter acquired, if at the time of such sale or disposition it intends to lease or otherwise acquire the right to use or possess (except by purchase) such property or like property for a substantially similar purpose, or (f) the sale or disposition of assets in arms length transactions; provided that the net book value of all assets

sold or otherwise disposed of in all such transactions after the Closing Date pursuant to subsections (b) through (f) of this Section 7.04 shall not exceed at any time an aggregate amount equal to 25% of the Company's Consolidated Assets, determined as of the end of the most recently completed fiscal quarter of the Company prior to such asset sale.

Section 7.05 Sales of Receivables.

Sell, transfer, discount or otherwise dispose of notes, accounts receivable or other obligations owing to the Company or any Subsidiary of the Company, with or without recourse, except for collection in the ordinary course of business.

Section 7.06 Loans and Investments.

Make or commit to make any advance, loan, extension of credit, or capital contribution to, or purchase or hold beneficially any stock or other securities, or evidence of Indebtedness of, purchase or acquire all or a substantial part of the assets of, make or permit to exist any interest whatsoever in, any other Person except for (a) the ownership of stock of any Subsidiary existing as of the Closing Date or acquired after the date hereof pursuant to an Acceptable Acquisition, provided that the Company has complied with its obligations under Section 6.12 hereof; (b) loans to directors and employees of the Company or of any of its Subsidiaries in an amount not to exceed \$5,000,000 in the aggregate at any time outstanding; (c) Eligible Investments; (d) loans and advances by the Company to any Subsidiary of the Company and loans and advances by any Subsidiary of the Company to the Company or any other Subsidiary of the Company; (e) trade credit to customers, provided that such credit is extended in the ordinary course of the business of the Company or such Subsidiary; (f) investments in joint ventures in an aggregate amount not to exceed 5% of the Company's Consolidated Assets at any time during the term of this Agreement, determined as of the end of the most recently completed fiscal quarter of the Company (excluding any amounts that are the result of equity growth resulting from the increased earnings or other increase in value of the joint venture or of the entity in which such investment was made), provided, (A) the documentation governing any such joint venture does not contain restrictions on distributions or dividends to the Company and (B) any such joint venture is engaged in the same or a related line of business conducted by the Company (or the manufacturing of products used in such business); (g) Acceptable Acquisitions and (h) the acquisition of 1,326,938 ordinary shares of YHS on September 6, 2005, and the acquisition of additional shares of YHS for consideration not to exceed \$6 million, all pursuant to the terms of the Subscription Agreement, dated August 3, 2005, between YHS and the Company, and any additional shares of YHS issued pursuant to any stock split, stock dividend, recapitalization or other similar transaction.

Section 7.07 **Nature of Business.**

Change or alter, in any material respect, the nature of its business from the nature of the business engaged in by it on the date hereof (or reasonable extension thereof).

Section 7.08 **Reserved.**

Section 7.09 **Federal Reserve Regulations.**

Permit any Loan or the proceeds of any Loan or any other extension of credit hereunder to be used for any purpose which violates or is inconsistent with the provisions of Regulation T, U or X of the Board of Governors of the Federal Reserve System.

Section 7.10 **Accounting Policies and Procedures.**

Permit any change in the accounting policies and procedures of the Company or any of its Subsidiaries, including a change in fiscal year without the prior written consent of the Administrative Agent, at its sole discretion; provided, however, that any policy or procedure required to be changed by the Financial Accounting Standards Board (or other board or committee thereof) or the SEC in order to comply with Generally Accepted Accounting Principles may be so changed.

Section 7.11 **Hazardous Materials.**

Cause or permit any of its properties or assets to be used to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce or process Hazardous Materials, except in compliance with all applicable federal, state and local laws or regulations, or cause or permit, as a result of any intentional or negligent act or omission on the part of the Company or any of its Subsidiaries, a release of Hazardous Materials onto such property or asset or onto any other property, except in compliance with such laws and regulations.

Section 7.12 **Limitations on Fundamental Changes, Limitations on Consideration.**

Except for Acceptable Acquisitions, and except as permitted by Section 7.04 hereof, merge or consolidate with, or sell, assign, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now or hereafter acquired) to, any Person, or, except with respect to an Acceptable Acquisition, acquire all of the stock or all or substantially all of the assets or the business of any Person or liquidate, wind up or dissolve or suffer any liquidation or dissolution. Notwithstanding the foregoing, (a) any Subsidiary of the Company may merge with and into the Company or any Domestic Subsidiary, (b) any Non-Domestic Subsidiary may merge with and into another Non-Domestic Subsidiary, and (c) the Company may merge with and into a Domestic Subsidiary in order to effect a change of the state of incorporation of the Company, provided that in each of the above (i) the Company shall notify the Administrative Agent not less than ten (10) Business Days prior to such event and (ii) the surviving entity shall, if applicable, assume the obligations of the merged entity pursuant to this Agreement or any of the other Loan Documents and shall execute such documents and agreements as may be reasonably required by the Administrative Agent.

Section 7.13 **Financial Condition Covenants.**

(a) **Consolidated Total Funded Debt to Consolidated EBITDA.** Permit the ratio of Consolidated Total Funded Debt to Consolidated EBITDA to be greater than 3.50:1.00, determined quarterly with respect to the most recently concluded four fiscal quarters for which financial statements have been delivered in accordance with Section 6.03 hereof, provided, however, that the ratio of Consolidated Total Funded Debt to Consolidated EBITDA may exceed 3.5 to 1.00 at any time during a Transition Period if such ratio of Consolidated Total Funded Debt to Consolidated EBITDA exceeded 3.5 to 1.00 as a direct result of the Company or any Subsidiary of the Company creating, assuming, incurring, guaranteeing or otherwise becoming liable in respect of Acquisition Debt so long as the ratio of Consolidated Total Funded Debt to Consolidated EBITDA at all times during such Transition Period shall not exceed 4.0 to 1.00.

(b) **Interest Coverage Ratio.** Permit the ratio of Consolidated EBITDA minus (i) Consolidated Maintenance Capital Expenditures and (ii) cash taxes paid to Consolidated Interest Expense to be less than 4.00:1.00, determined quarterly with respect to the most recently concluded four fiscal quarters for which financial statements have been delivered in accordance with Section 6.03 hereof.

Section 7.14 **Subordinated Debt.**

(a) Directly or indirectly prepay, defease, purchase, redeem, or otherwise acquire any Subordinated Debt or (b) amend, supplement or otherwise modify any of the subordinated terms thereof in any way which would materially affect the interests of the Lenders, without the prior written consent of the Required Lenders.

Section 7.15 **Dividends.**

After the Closing Date, declare any dividend on, or make any payment on account of, or set apart assets for a sinking or other analogous fund for the purchase, redemption, defeasance, retirement or other acquisition of, any shares of any class of stock of the Company whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash, securities or property or in obligations of the Company or in any combination thereof, except (a) dividends paid by a Guarantor to the Company, and (b) so long as no Default or Event of Default has occurred or is continuing or would result from the payment thereof, dividends or similar payments in respect of any shares of the Company's capital stock, such that both before and after giving effect thereto, the Company's Consolidated Net Worth would exceed the sum of (i) the Consolidated Net Worth of the Company as of December 31, 2005, minus (ii) \$50,000,000, plus (iii) 25% of aggregate cumulative Consolidated Net Income (Net Loss) for the period commencing on January 1, 2006 through the date of such payment. Notwithstanding the foregoing, the Company shall not be deemed to be in default of its obligations under this Section 7.15 if, as a result of suffering a net loss in any fiscal period, dividends paid prior to the incurring of such loss would then (as a result of such loss) exceed the amount permitted to be paid hereunder.

Notwithstanding anything to the contrary, so long as no Default or Event of Default has occurred and is then continuing or would occur by reason of non-compliance with Section 7.13

hereof as a result thereof, the Company may repurchase, from time to time, those shares of stock of the Company sold by the Company to YHS and YHSM, including all shares of stock of the Company sold in connection with the exercise by YHS and YHSM of the option for additional shares of stock of the Company, all as set forth in the Securities Purchase Agreement and the Investor's Agreement (collectively, the "Company Shares"). For purposes of calculating compliance with the first sentence of this Section 7.15, such repurchase of Company Shares shall be disregarded.

Section 7.16 **Transactions with Affiliates.**

Enter into any transaction, including, without limitation, the purchase, sale, or exchange of property or the rendering of any service, with any Affiliate, except (i) in the ordinary course of and pursuant to the reasonable requirements of the Company's or any of its Subsidiaries' business (including reasonable and customary fees paid to officers and directors, employees or consultants of the Company or any Subsidiary or their respective affiliates for services rendered thereto consistent with past practices) and upon fair and reasonable terms no less favorable to the Company or such Subsidiary than they would obtain in a comparable arms-length transaction with a Person not an Affiliate, (ii) under written arrangements in existence as of the date of this Agreement and described on Schedule VIII attached hereto or as otherwise described on such Schedule VIII, (iii) transactions exclusively between or among the Company and any direct or indirect wholly-owned Guarantor or exclusively between or among such direct or indirect wholly-owned Guarantors (which shall include any transactions between the Company or any Guarantor and Hain Pure Protein Corporation, notwithstanding anything contained herein to the contrary), provided, such transactions are not otherwise prohibited by this Agreement, or (iv) transactions pursuant to Section 7.04(c) and (d) hereof.

Section 7.17 **Negative Pledge.**

Enter into any agreement, arrangement or understanding with any Person (other than the Lenders pursuant to this Agreement or any of the other Loan Documents) which prohibits or limits the ability of the Company or any of its Subsidiaries to create, incur, assume or suffer to exist any Lien upon its property, assets or revenues, whether now owned or hereafter acquired (except insofar as the note purchase agreement in respect of the Private Placement Notes contains such prohibitions).

ARTICLE VIII.
EVENTS OF DEFAULT

Section 8.01 **Events of Default.**

In the case of the happening of any of the following events (each an "Event of Default"):

- (a) failure to pay (i) the principal of any Loan as and when due and payable or (ii) interest on any Loan, any reimbursement obligations with respect to a drawing under any Letter of Credit, or any fees under this Agreement, as and when due and payable and, in the case of this subclause (ii) only, such failure shall continue unremedied for a period of three (3) Business Days;

(b) any representation or warranty made or deemed made in this Agreement or any other Loan Document shall prove to be false or misleading in any material respect when made or given or when deemed made or given;

(c) any report, certificate, financial statement or other instrument furnished in connection with this Agreement or any other Loan Document or the extensions of credit hereunder, shall prove to be false or misleading in any material respect when made or given or when deemed made or given;

(d) default shall be made in the due observance or performance (beyond any applicable grace periods, if any) of any covenant, condition or agreement of the Company or any Subsidiary of the Company to be performed (i) pursuant to Article 6 of this Agreement (other than Section 6.03 and Section 6.04(b) thereof) and, in the case of this subclause (i) only, such default shall continue unremedied for a period of thirty (30) consecutive days or (ii) pursuant to any other provision of this Agreement or any other Loan Document;

(e) default in the performance or compliance in respect of any agreement or condition relating to any Indebtedness of the Company or any Guarantor in excess of \$7,000,000 individually or in the aggregate (other than the Notes), if the effect of such default is to accelerate the maturity of such Indebtedness or to permit the holder or obligee thereof (or a trustee on behalf of such holder or obligee) to cause such Indebtedness to become due prior to the stated maturity thereof, or, any such Indebtedness shall not be paid when due (beyond any applicable grace period);

(f) the Company or any Subsidiary of the Company shall (i) voluntarily commence any proceeding or file any petition seeking relief under Title 11 of the United States Code or any other federal or state bankruptcy, insolvency or similar law, (ii) consent to the institution of, or fail to controvert in a timely and appropriate manner, any such proceeding or the filing of any such petition, (iii) apply for or consent to the employment of a receiver, trustee, custodian, sequestrator or similar official for the Company or any Subsidiary of the Company or for a substantial part of its property; (iv) file an answer admitting the material allegations of a petition filed against it in such proceeding, (v) make a general assignment for the benefit of creditors, or (vi) take corporate action for the purpose of effecting any of the foregoing; or the Company, or any Subsidiary of the Company, becomes unable or admits in writing its inability or fails generally to pay its debts as they become due;

(g) an involuntary proceeding shall be commenced or an involuntary petition shall be filed in a court of competent jurisdiction seeking (i) relief in respect of the Company or any Subsidiary of the Company or of a substantial part of their respective property, under Title 11 of the United States Code or any other federal or state bankruptcy, insolvency or similar law, (ii) the appointment of a receiver, trustee, custodian, sequestrator or similar official for the Company or any Subsidiary of the Company or for a substantial part of their property, or (iii) the winding-up or liquidation of the Company or any Subsidiary of the Company and such proceeding or petition shall continue undismissed for thirty (30) days or an order or decree approving or ordering any of the foregoing shall continue unstayed and in effect for thirty (30) days;

(h) one or more orders, judgments or decrees for the payment of money in excess of \$5,000,000 in the aggregate shall be rendered against the Company or any Subsidiary of the Company which is not covered by insurance and the same shall not have been paid in accordance with such judgment, order or decree or settlement and either (i) an enforcement proceeding shall have been commenced by any creditor upon such judgment, order or decree, or (ii) there shall have been a period of sixty (60) days during which a stay of enforcement of such judgment, order or decree, by reason of pending appeal or otherwise, was not in effect;

(i) any Plan shall fail to maintain the minimum funding standard required under Section 412 of the Code for any Plan year or part thereof or a waiver of such standard or extension of any amortization period is applied for or granted under Section 412 of the Code, any Plan is terminated by the Company, any Subsidiary of the Company or any ERISA Affiliate or the subject of termination proceedings under ERISA, any Plan shall have an Unfunded Current Liability, a Reportable Event shall have occurred with respect to a Plan or the Company, any Subsidiary of the Company, or any ERISA Affiliate shall have incurred a liability to or on account of a Plan under Section 515, 4062, 4063, 4201 or 4204 of ERISA, and there shall result from any such event or events the imposition of a lien upon the assets of the Company or any Subsidiary of the Company, the granting of a security interest on such assets, or a liability to the PBGC or a Plan or a trustee appointed under ERISA or a penalty under Section 4971 of the Code;

(j) any material provision of any Loan Document shall for any reason cease to be in full force and effect in accordance with its terms or the Company or any Guarantor shall so assert in writing;

(k) any Guarantor shall fail to perform or observe any term or provision of such Guarantor's Guaranty or any representation or warranty made by any Guarantor in connection with such Guarantor's Guaranty shall prove to have been incorrect in any material respect when made or deemed made;

(l) a Change of Control shall have occurred; or

(m) a default shall occur with respect to the Private Placement Notes, if the effect of such default is to accelerate the maturity of such Private Placement Notes or to permit the holder or obligee thereof (or a trustee on behalf of such holder or obligee) to cause such Private Placement Notes to become due prior to the stated maturity thereof, or, any payments with respect to such Private Placement Notes shall not be paid when due (beyond any applicable grace period).

then, at any time thereafter during the continuance of any such event, the Administrative Agent may, and, upon the request of the Required Lenders, shall, by written or telephonic notice to the Company, take either or both of the following actions, at the same or different times, (a) terminate the Commitments and (b) declare (i) the Notes, both as to principal and interest, (ii) an amount equal to the Aggregate Letters of Credit Outstanding and (iii) all other Obligations, to be forthwith due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived, anything contained herein or in the Notes to the contrary notwithstanding; provided, however, that if an event specified in Section 8.01(f) and (g) hereof

shall have occurred, the Commitments shall automatically terminate and interest, principal and amounts referred to in the preceding clauses (i), (ii) and (iii) shall be immediately due and payable without presentment, demand, protest, or other notice of any kind, all of which are expressly waived, anything contained herein or in the Notes to the contrary notwithstanding. With respect to all Letters of Credit that shall not have expired or presentment for honor shall not have occurred, the Company shall provide the Administrative Agent with Cash Collateral in an amount equal to the aggregate undrawn amount of such Letters of Credit. Such Cash Collateral shall be applied by the Administrative Agent to reimburse the Issuing Lender for drawings under Letters of Credit for which the Issuing Lender has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Company at such time or, if the maturity of the Loans has been accelerated, be applied to satisfy other Obligations, with any amount remaining after such satisfactions to be returned to the Company or paid to such other party as may legally be entitled to the same.

**ARTICLE IX.
THE ADMINISTRATIVE AGENT**

Section 9.01 Appointment, Powers and Immunities.

Each Lender hereby irrevocably appoints and authorizes the Administrative Agent to act as its agent hereunder and under the other Loan Documents with such powers as are specifically delegated to the Administrative Agent by the terms of this Agreement and the other Loan Documents together with such other powers as are reasonably incidental thereto. The Administrative Agent shall have no duties or responsibilities except those expressly set forth in this Agreement and the other Loan Documents and shall not be a trustee for any Lender, nor is the Administrative Agent acting in a fiduciary capacity of any kind under this Agreement or the other Loan Documents or in respect thereof or in respect of any Lender. The Administrative Agent shall not be responsible to the Lenders for any recitals, statements, representations or warranties contained in this Agreement or the other Loan Documents, in any certificate or other document referred to or provided for in, or received by any of them under, this Agreement or the other Loan Documents, or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or the other Loan Documents or any other document referred to or provided for herein or therein or for the collectibility of the Loans or for the validity or effectiveness of any assignment, mortgage, pledge, security agreement, financing statement, document or instrument, or for the filing, recording, re-filing, continuing or re-recording of any thereof or for any failure by the Company or any Guarantor to perform any of its obligations hereunder or under the other Loan Documents. The Administrative Agent may take all actions by itself and/or it may employ agents and attorneys-in-fact, and shall not be responsible to any Lender, except as to money or the securities received by it or its authorized agents, for the negligence or misconduct of itself or its employees or of any such agents or attorneys-in-fact, if such agents or attorneys-in-fact are selected by it with reasonable care. Neither the Administrative Agent nor any of its directors, officers, employees or agents shall be liable or responsible for any action taken or omitted to be taken by it or them hereunder or under the other Loan Documents or in connection herewith or therewith, except for its or their own gross negligence or willful misconduct.

Section 9.02 Reliance by Administrative Agent.

The Administrative Agent shall be entitled to rely upon, and shall not incur any liability to any Lender for relying upon, any certification, notice or other communication (including any thereof by telephone, telecopy or telegram) believed by it to be genuine and correct and to have been signed or sent by or on behalf of the proper Person or Persons, and upon advice and statements of legal counsel, independent accountants and other experts selected by the Administrative Agent. As to any matters not expressly provided for by this Agreement or the other Loan Documents, the Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, hereunder or under the other Loan Documents in accordance with instructions signed by the Required Lenders, or such other number of Lenders as is specified in Section 10.04 hereof, and such instructions of the Required Lenders or other number of Lenders as aforesaid and any action taken or failure to act pursuant thereto shall be binding on all of the Lenders.

Section 9.03 Events of Default.

The Administrative Agent shall not be deemed to have knowledge of the occurrence of a Default or Event of Default (other than the non-payment of principal of or interest on the Loans or of fees to the extent the same is required to be paid to the Administrative Agent for the account of the Lenders) unless the Administrative Agent has received notice from a Lender or the Company specifying such Default or Event of Default and stating that such notice is a "Notice of Default". In the event that the Administrative Agent receives such a notice of the occurrence of a Default or Event of Default, the Administrative Agent shall give prompt notice thereof to the Lenders. The Administrative Agent shall (subject to Section 9.07 hereof) take such action with respect to such Default or Event of Default as shall be directed by the Required Lenders, except as otherwise provided in Section 10.04 hereof; provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but is not obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interest of the Lenders.

Section 9.04 Rights as a Lender.

With respect to its Commitment and the Loans made by it, the entity which is the Administrative Agent, in its capacity as a Lender hereunder, shall have the same rights and powers hereunder as any other Lender and may exercise the same as though it were not acting as the Administrative Agent, and the term "Lender" or "Lenders" shall, unless the context otherwise indicates, include each entity which is the Administrative Agent in its individual capacity. The Administrative Agent and its Affiliates may (without having to account therefor to any Lender) accept deposits from, lend money to and generally engage in any kind of banking, trust or other business with the Company or its Affiliates, as if it were not acting as the Administrative Agent, and, except to the extent otherwise herein specifically set forth, the Administrative Agent may accept fees and other consideration from the Company or its Affiliates, for services in connection with this Agreement or any of the other Loan Documents or otherwise without having to account for the same to the Lenders.

Section 9.05 Indemnification.

The Lenders shall indemnify the Administrative Agent (to the extent not reimbursed by the Company under Section 10.03 hereof), ratably in accordance with the aggregate outstanding principal amount of the Loans made by the Lenders (or, if no Loans are at the time outstanding, ratably in accordance with their respective Commitments), for any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind and nature whatsoever which may be imposed on, incurred by or asserted against the Administrative Agent in its capacity as the Administrative Agent in any way relating to or arising out of this Agreement or any of the other Loan Documents or any other documents contemplated by or referred to herein or therein or the transactions contemplated hereby and thereby (including, without limitation, the costs and expenses which the Company is obligated to pay under Section 10.03 hereof or under the applicable provisions of any other Loan Document) or the enforcement of any of the terms hereof or of any other Loan Document, provided that no Lender shall be liable for any of the foregoing to the extent they arise from the gross negligence or willful misconduct of the Administrative Agent.

Section 9.06 Non-Reliance on Administrative Agent and Other Lenders.

Each Lender agrees that it has, independently and without reliance on the Administrative Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own credit analysis of the Company and decision to enter into this Agreement and that it will, independently and without reliance upon the Administrative Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own analysis and decisions in taking or not taking action under this Agreement or under the other Loan Documents. The Administrative Agent shall not be required to keep itself informed as to the performance or observance by the Company of this Agreement or the other Loan Documents or any other document referred to or provided for herein or therein or to inspect the properties or books of the Company. Except for notices, reports and other documents and information expressly required to be furnished to the Lenders by the Administrative Agent hereunder or under the other Loan Documents, or furnished to the Administrative Agent with counterparts or copies for the Lenders, the Administrative Agent shall not have any duty to provide any Lender with any credit or other information concerning the affairs, financial condition or business of the Company, which may come into the possession of the Administrative Agent or any of its Affiliates.

Section 9.07 Failure to Act.

Except for action expressly required of the Administrative Agent hereunder or under any other Loan Documents, the Administrative Agent shall in all cases be fully justified in failing or refusing to act hereunder or thereunder unless it shall be indemnified to its satisfaction by the Lenders against any and all liability (except gross negligence and willful misconduct) and expense which may be incurred by it by reason of taking or continuing to take any such action.

Section 9.08 Resignation of an Agent.

Subject to the appointment and acceptance of a successor Agent as provided in this Section 9.08, the Co-Syndication Agents, the Co-Documentation Agents or the Administrative Agent may resign at any time by notifying the Lenders and the Company. Upon any such

resignation, the Required Lenders shall have the right, with the approval of the Company provided no Default or Event of Default shall have occurred and then be continuing, and such approval not to be unreasonably withheld, delayed or conditioned, to appoint a successor to such Agent. If no successor shall have been so appointed by the Required Lenders (with the approval of the Company) and shall have accepted such appointment within thirty (30) days after the resigning Agent gives notice of its resignation, then the resigning Agent may, on behalf of the Lenders, appoint a successor Agent which shall be a bank of similar standing with an office in New York, New York, or an Affiliate of any such bank. Upon the acceptance of its appointment as Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the resigning Agent, and the resigning Agent shall be discharged from its duties and obligations hereunder as of such date. The fees payable by the Company to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Company and such successor. After an Agent's resignation hereunder, the provisions of this Article and Section 10.03 hereof shall continue in effect for the benefit of such resigning Agent in respect of any actions taken or omitted to be taken by it while it was acting as an Agent.

Section 9.09 **Pro Rata Sharing.**

In the event that at any time any Lender shall obtain payment in respect of the Obligations, including any payment received by Bank of America, N.A. in connection with the enforcement of a Guaranty, or receive any collateral in respect thereof, whether voluntarily or involuntarily, through the exercise of a right of banker's lien, set-off or counterclaim against the Company or otherwise (except pursuant to Section 3.09 or Section 10.05 hereof), which results in it receiving more than its pro rata share (based on such Lender's Commitment Proportion) of the aggregate payments with respect to all of the Obligations (other than any payment expressly provided hereunder to be distributed on other than a pro rata basis), then such Lender shall be deemed to have simultaneously purchased from the other Lenders a share in their Obligations so that the amount of the Obligations held by each of the Lenders shall be pro rata (based on such Lender's Commitment Proportion); provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from the Lender which received the proportionate over-payment, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest. The Company agrees, to the extent it may do so under applicable law, that each Lender so purchasing a portion of another Lender's Loan or participation in any Letter of Credit may exercise all rights of payment (including, without limitation, rights of set-off) with respect to such portion as fully as if such Lender were the direct holder of such portion.

ARTICLE X.
MISCELLANEOUS

Section 10.01 **Notices.**

All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including telecopy), and unless otherwise expressly provided herein, shall be conclusively deemed to have been received by a party hereto and to be effective on the day on which delivered by hand to such party or one (1) Business Day after being sent by overnight mail

to the address set forth below, or, in the case of telecopy notice, when acknowledged as received, or if sent by registered or certified mail, three (3) Business Days after the day on which mailed in the United States, addressed to such party at such address:

(a) if to the Administrative Agent, at:

Bank of America, N.A.
1185 Avenue of the Americas
New York, NY 10036
Attention: SVP Senior Credit Products Officer

Telecopy: (212) 819-6166

With a copy (which shall not constitute notice) to:

Agency Management
100 Federal Street
Mail Stop MA5 1001102
Boston, MA 02110

and to:

Goulston & Storrs
400 Atlantic Avenue
Boston, MA 02110
Attention: Philip A. Herman, Esq.
Telecopy: (617) 574-7592

(b) if to the Company, at:

The Hain Celestial Group, Inc.
58 South Service Road
Melville, NY 11747
Attention: Ira J. Lamel
Telecopy: (631) 730-2561

With a copy (which shall not constitute notice) to:
ilamel@hain-celestial.com

With a copy (which shall not constitute notice) to:

Cahill Gordon & Reindel LLP
80 Pine Street
New York, New York 10005
Attention: Geoffrey E. Liebmann, Esq.
Telecopy: (212)269-5420

(c) if to any Lender, to its address set forth in the signature page of this Agreement and to the person so designated;

- and -

(d) as to each party at such other address as such party shall have designated (i) if such party is a Lender, by written notice to the Administrative Agent and the Company, (ii) if such party is the Company, by written notice to the Administrative Agent and to each Lender, and (iii) if such party is the Administrative Agent, by written notice to the Company and each Lender, in each case, delivered in accordance with the provisions of this Section 10.01.

Section 10.02 Effectiveness; Survival.

This Agreement shall become effective on the date on which all parties hereto shall have signed a counterpart copy hereof and shall have delivered the same to the Administrative Agent. All representations and warranties made herein and in the other Loan Documents and in the certificates delivered pursuant hereto or thereto shall survive the making by the Lenders of the Loans and the issuance by the Issuing Lender of Letters of Credit, in each case, as herein contemplated and the execution and delivery to the Lenders of the Notes evidencing the Loans and shall continue in full force and effect so long as the Obligations hereunder are outstanding and unpaid and the Commitments are in effect. The obligations of the Company pursuant to Sections 3.07, 3.08, 3.10, 6.13 and 10.03 hereof shall, notwithstanding anything herein to the contrary, survive termination of this Agreement and payment of the Obligations.

Section 10.03 Expenses.

The Company agrees (a) to indemnify, defend and hold harmless the Administrative Agent, the Issuing Lender and each Lender and their respective officers, directors, employees, and affiliates (each, an "indemnified person") from and against any and all losses, claims, damages, liabilities, obligations, penalties, actions, judgments, suits, costs, expenses, or disbursements to which any such indemnified person may be subject and arising out of or in connection with the Loan Documents, the financings contemplated hereby, the use of any proceeds of such financings or any claim, litigation, investigation or proceeding relating to any of the foregoing, whether or not any of such indemnified persons is a party thereto, and to reimburse each of such indemnified persons upon demand for any reasonable legal or other expenses incurred in connection with the investigation or defending any of the foregoing; provided that the foregoing indemnity will not, as to any indemnified person, apply to losses, claims, damages, liabilities, judgments or related expenses to the extent arising from the willful misconduct or gross negligence of such indemnified person, (b) to pay or reimburse the Administrative Agent for all its out-of-pocket costs and reasonable expenses incurred in connection with the preparation and execution of and any amendment, supplement or modification to this Agreement, the Notes any other Loan Documents, and any other documents prepared in connection herewith or therewith, and the consummation of the transactions contemplated hereby and thereby, including without limitation, the reasonable fees and disbursements of Goulston & Storrs P.C., counsel to the Administrative Agent, and (c) to pay or

reimburse each Lender and the Administrative Agent for all their costs and expenses incurred in connection with the enforcement and preservation of any rights under this Agreement, the Notes, the other Loan Documents, and any other documents prepared in connection herewith or therewith, including, without limitation, the reasonable fees and disbursements of counsel (including, without limitation, in-house counsel) to the Administrative Agent and to the several Lenders, including all such out-of-pocket expenses incurred during any work-out, restructuring or negotiations in respect of the Obligations.

Section 10.04 Amendments and Waivers.

With the written consent of the Required Lenders, the Administrative Agent and the Company may, from time to time, enter into written amendments, supplements or modifications hereto for the purpose of adding any provisions to this Agreement or the Notes or any of the other Loan Documents or changing in any manner the rights of the Lenders or of the Company hereunder or thereunder, and with the written consent of the Required Lenders the Administrative Agent on behalf of the Lenders may execute and deliver to the Company a written instrument waiving, on such terms and conditions as the Administrative Agent or the Required Lenders may specify in such instrument, any of the requirements of this Agreement or the Notes or any of the other Loan Documents or any Default or Event of Default; provided, however, that no such waiver and no such amendment, or supplement or modification shall (a) extend the maturity of any Note or any installment thereof; (b) reduce the rate or extend the time of payment of interest on any Note or any fees payable to the Lenders hereunder; (c) reduce the principal amount of any Note or the amount of any reimbursement due in respect of any Letter of Credit; (d) amend, modify or waive any provision of this Section 10.04; (e) reduce the percentage specified in the definition of Required Lenders or amend or modify any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination granting consent hereunder; (f) consent to the assignment or transfer by the Company of any of its rights or obligations under this Agreement; (g) except as expressly permitted pursuant to this Agreement or any other Loan Document release any collateral security granted to the Administrative Agent, if any; (h) release any Guarantor from its Guaranty, or limit any Guarantor's liability with respect to its Guaranty; (i) amend the definition of Acceptable Acquisition; (j) amend the terms of Section 3.11 hereof (solely as it pertains to the pro rata treatment of the Lenders), or (k) permit any Letter of Credit issued hereunder to expire on or after the Revolving Credit Commitment Termination Date, in each case specified in clauses (a) through (k) above without the written consent of all the Lenders; and provided, further, that no such waiver and no such amendment, supplement or modification shall (i) amend, modify, supplement or waive any provision of Article IX with respect to the Administrative Agent without the written consent of the Administrative Agent or (ii) increase the amount of any Lender's Commitment without the written consent of such Lender. Any such waiver and any such amendment, supplement or modification shall apply equally to each of the Lenders and shall be binding upon the Company, the Lenders, the Administrative Agent and all future holders of the Notes.

Section 10.05 Successors and Assigns; Participations.

(a) This Agreement shall be binding upon and inure to the benefit of the Company, the Lenders, the Administrative Agent, all future holders of the Notes and their

respective successors and assigns, except that the Company may not assign or transfer any of its rights or obligations under this Agreement or any other Loan Document without the prior written consent of each Lender and any such assignment without such consent shall be null and void.

(b) Any Lender may, in the ordinary course of its commercial banking business and in accordance with applicable law, at any time sell to one or more banks or other financial institutions (“Participants”) participating interests in any Loan owing to such Lender, any Note held by such Lender, any Commitment of such Lender or any other interest of such Lender hereunder. In the event of any such sale by a Lender of participating interests to a Participant, such Lender’s obligations under this Agreement to the other parties under this Agreement shall remain unchanged, such Lender shall remain solely responsible for the performance thereof, such Lender shall remain the holder of any such Note for all purposes under this Agreement, and the Company and the Administrative Agent shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. The Company agrees that each Participant shall be entitled to the benefits of Sections 3.07, 3.08 and 3.10 hereof with respect to its participation in the Commitments and in the Loans and Letters of Credit outstanding from time to time; provided, however, that no Participant shall be entitled to receive any greater amount pursuant to such Sections than the transferor Lender would have been entitled to receive in respect of the amount of the participation transferred by such transferor Lender to such Participant had no such transfer occurred. No Participant shall have the right to consent to any amendment to, or waiver of, any provision of this Agreement, except the transferor Lender may provide in its agreement with the Participant that such Lender will not, without the consent of the Participant, agree to any amendment or waiver described in clause (a) through clause (h) of Section 10.04 hereof.

(c) Subject to the last two sentences of this paragraph (c) any Lender may, in the ordinary course of its commercial banking business and in accordance with applicable law, at any time sell to any Lender, any Affiliate of any Lender or any Approved Fund, and, with the consent of the Administrative Agent, and, so long as no Default or Event of Default shall have occurred and be continuing, the Company (which in each case shall not be unreasonably withheld, delayed or conditioned), to one or more additional banks or other financial institutions (“Purchasing Lenders”) all or any part of its rights and obligations under this Agreement and the Notes pursuant to an Assignment and Acceptance Agreement, executed by such Purchasing Lender, such transferor Lender and the Administrative Agent (and, in the case of an Assignment and Acceptance Agreement relating to a Purchasing Lender that is not then a Lender or a domestic banking affiliate thereof, also executed by the Company), and delivered to the Administrative Agent for its acceptance. Upon such execution, delivery and acceptance from and after the effective date specified in such Assignment and Acceptance Agreement, (i) the Purchasing Lender thereunder shall be a party hereto and, to the extent provided in such Assignment and Acceptance Agreement, have the rights and obligations of a Lender hereunder with Commitments as set forth therein and (ii) the transferor Lender thereunder shall, to the extent provided in such Assignment and Acceptance Agreement, be released from its obligations under this Agreement arising after such transfer (and, in the case of an Assignment and Acceptance Agreement covering all or the remaining portion of a transferor Lender’s rights and obligations under this Agreement, such transferor Lender shall cease to be a party hereto except as to Sections 3.07, 3.08, 3.10 and 10.03 hereof for the period prior to the effective date). Such Assignment and Acceptance Agreement shall be deemed to amend this Agreement to the extent,

and only to the extent, necessary to reflect the addition of such Purchasing Lender and the resulting adjustment of Commitment Proportions arising from the purchase by such Purchasing Lender of all or a portion of the rights and obligations of such transferor Lender under or in respect of this Agreement and the Notes. On or prior to the effective date specified in such Assignment and Acceptance Agreement, the Company, at its own expense, shall execute and deliver to the Administrative Agent, in exchange for each surrendered Note, new Notes to the order of such Purchasing Lender in an amount equal to the Commitments assumed by it pursuant to such Assignment and Acceptance Agreement and, if the transferor Lender has retained any Commitment hereunder, a new Note to the order of the transferor Lender in an amount equal to such Commitment retained by it hereunder. Such new Notes shall be in a principal amount equal to the principal amount of such surrendered Note, shall be dated the effective date specified in the Assignment and Acceptance Agreement and shall otherwise be in the form of the Notes replaced thereby. The Notes surrendered by the transferor Lender shall be returned by the Administrative Agent to the Company marked "cancelled". Anything in this Section 10.05 to the contrary notwithstanding, no transfer to a Purchasing Lender shall be made pursuant to this paragraph (c), if (x) such transfer by any one transferor Lender to any one Purchasing Lender (other than a Purchasing Lender which is a Lender hereunder prior to such transfer) is in respect of less than \$5,000,000 of the Commitments of such transferor Lender or (y) after giving effect to such transfer the amount held by any transferor Lender would be less than \$5,000,000. Notwithstanding any of the foregoing of this paragraph (c) to the contrary, any assignment of any Swingline Commitment by any Lender shall require the prior approval of the Administrative Agent and the Swingline Lender.

(d) The Administrative Agent shall maintain at its address referred to in Section 10.01 hereof a copy of each Assignment and Acceptance Agreement delivered to it and a register (the "Register") for the recordation of the names and addresses of the Lenders and the commitments of, and principal amount of the Loans owing to, each Lender from time to time. The entries in the Register shall be conclusive, in the absence of demonstrable error and the Company, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register as the owner of the Loans recorded therein for all purposes of this Agreement. The Register shall be available for inspection by the Company or any Lender at any reasonable time and from time to time upon reasonable prior notice.

(e) Upon its receipt of an Assignment and Acceptance Agreement executed by a transferor Lender and a Purchasing Lender (and, in the case of a Purchasing Lender that is not then a Lender or an Affiliate thereof, by the Company), the Administrative Agent shall (i) accept such Assignment and Acceptance Agreement, (ii) record the information contained therein in the Register, and (iii) give prompt notice of such acceptance and recordation to the Lenders and the Company.

(f) The Company authorizes each Lender to disclose to any Participant or Purchasing Lender (each, a "Transferee") and any prospective Transferee any and all financial information in such Lender's possession concerning the Company and its Affiliates which has been delivered to such Lender by or on behalf of the Company pursuant to this Agreement or which has been delivered to such Lender by the Company in connection with such Lender's credit evaluation of the Company and its Subsidiaries prior to entering into this Agreement.

(g) If, pursuant to this Section 10.05, any interest in this Agreement, a participation agreement, or any Note is transferred to any transferee which is organized under the laws of any jurisdiction other than the United States or any State thereof, the transferor Lender shall cause such Transferee, concurrently with the effectiveness of such transfer, (i) to represent to the transferor Lender (for the benefit of the transferor Lender, the Administrative Agent and the Company) that under applicable law and treaties no taxes will be required to be withheld by the Administrative Agent, the Company, or the transferor Lender with respect to any payments to be made to such Transferee in respect of the Loans, (ii) to furnish to the Administrative Agent, the transferor Lender and the Company either U.S. Internal Revenue Service Form W-8ECI or U.S. Internal Revenue Service Form W-8BEN (wherein such Transferee claims entitlement to complete exemption from U.S. federal withholding tax on all interest payments hereunder) and (iii) to agree (for the benefit of the Administrative Agent, the transferor Lender and the Company) to provide the Administrative Agent, the transferor Lender and the Company a new Form W-8ECI or Form W-8BEN upon the expiration or obsolescence of any previously delivered form and comparable statements in accordance with applicable U.S. laws and regulations and amendments duly executed and completed by such Transferee, and to comply from time to time with all applicable U.S. laws and regulations with regard to such withholding tax exemption.

(h) Any Lender may at any time pledge or assign or grant a security interest in all or any part of its rights under this Agreement and the other Loan Documents, including any portion of its Notes, to any of the twelve (12) Federal Reserve Banks organized under Section 4 of the Federal Reserve Act, 12 U.S.C. Section 341, provided that no such assignment shall release the transferor Lender from its Commitments or its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party to this Agreement.

Section 10.06 No Waiver; Cumulative Remedies.

Neither any failure nor any delay on the part of any Lender, the Issuing Lender or the Administrative Agent in exercising any right, power or privilege hereunder or under any Note or any other Loan Document shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise of any other right, power or privilege. The rights, remedies, powers and privileges herein provided or provided in the other Loan Documents are cumulative and not exclusive of any rights, remedies powers and privileges provided by law.

Section 10.07 APPLICABLE LAW.

THIS AGREEMENT AND THE NOTES SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK (EXCLUDING THE LAWS APPLICABLE TO CONFLICTS OR CHOICE OF LAW, OTHER THAN GENERAL OBLIGATIONS LAW §§ 5-1401 AND 5-1402).

Section 10.08 SUBMISSION TO JURISDICTION; JURY WAIVER.

THE COMPANY HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY FEDERAL OR STATE COURT IN THE STATE OF NEW YORK, COUNTY OF NEW YORK, COUNTY OF NASSAU OR COUNTY OF

SUFFOLK IN ANY ACTION, SUIT OR PROCEEDING BROUGHT AGAINST IT AND RELATED TO OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE COMPANY HEREBY WAIVES AND AGREES NOT TO ASSERT BY WAY OF MOTION, AS A DEFENSE OR OTHERWISE, IN ANY SUCH SUIT, ACTION OR PROCEEDING ANY CLAIM THAT IT IS NOT PERSONALLY SUBJECT TO THE JURISDICTION OF SUCH FEDERAL OR STATE COURTS, THAT SUCH SUIT, ACTION OR PROCEEDING IS BROUGHT IN AN INCONVENIENT FORUM, THAT THE VENUE OF SUCH SUIT, ACTION OR PROCEEDING IS IMPROPER, OR THAT THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR ANY OTHER DOCUMENT OR INSTRUMENT REFERRED TO HEREIN OR THEREIN OR THE SUBJECT MATTER HEREOF OR THEREOF MAY NOT BE LITIGATED IN OR BY SUCH FEDERAL OR STATE COURTS. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE COMPANY AGREES NOT TO (i) SEEK AND HEREBY WAIVES THE RIGHT TO ANY REVIEW OF THE JUDGMENT OF ANY SUCH COURT BY ANY COURT OF ANY OTHER NATION OR JURISDICTION WHICH MAY BE CALLED UPON TO GRANT AN ENFORCEMENT OF SUCH JUDGMENT OR (ii) ASSERT ANY COUNTERCLAIM IN ANY SUCH SUIT, ACTION OR PROCEEDING UNLESS SUCH COUNTERCLAIM IS A COMPULSORY OR MANDATORY COUNTERCLAIM UNDER APPLICABLE LAWS GOVERNING CIVIL PROCEDURE. THE COMPANY AGREES THAT SERVICE OF PROCESS MAY BE MADE UPON IT BY CERTIFIED OR REGISTERED MAIL TO THE ADDRESS FOR NOTICES SET FORTH IN THIS AGREEMENT OR ANY METHOD AUTHORIZED BY THE LAWS OF NEW YORK. EACH PARTY HERETO KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT, THE NOTES OR ANY OTHER LOAN DOCUMENT CONTEMPLATED TO BE EXECUTED IN CONNECTION HERewith OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY RELATING THERETO, AND AGREES THAT NO PARTY WILL SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. EXCEPT AS PROHIBITED BY LAW, THE COMPANY HEREBY WAIVES ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER IN ANY LITIGATION ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES. THE COMPANY CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE ADMINISTRATIVE AGENT, THE ISSUING LENDER OR ANY LENDER HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THEY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER. THIS WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR THE LENDERS TO ENTER INTO THIS AGREEMENT AND TO MAKE THE LOANS AND OTHER EXTENSIONS OF CREDIT.

Section 10.09 Severability.

In case any one or more of the provisions contained in this Agreement, any Note or any other Loan Document should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby.

Section 10.10 **Right of Setoff.**

The Company and the Guarantors hereby grant to the Administrative Agent, the Issuing Lender, each Lender and each Affiliate of each Lender, a continuing lien, security interest and right of setoff as security for all liabilities and obligations to the Administrative Agent, the Issuing Lender and each Lender, whether now existing or hereafter arising, upon and against all deposits, credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of the Administrative Agent, the Issuing Lender, any Lender, any Affiliate of such Lender or any entity under the control of Bank of America, N.A. and its successors or assigns or in transit to any of them. At any time, without demand or notice (any such notice being expressly waived by the Company), the Administrative Agent, the Issuing Lender, each Lender and each Affiliate of each Lender may set off the same or any part thereof and apply the same to any liability or obligation of the Company or any Guarantor even though unmatured and regardless of the adequacy of any other collateral securing this Agreement. **ANY AND ALL RIGHTS TO REQUIRE THE ADMINISTRATIVE AGENT, THE ISSUING LENDER, EACH LENDER OR ANY AFFILIATE OF EACH LENDER TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THIS AGREEMENT, PRIOR TO EXERCISING ITS RIGHT OF SETOFF WITH RESPECT TO SUCH DEPOSITS, CREDITS OR OTHER PROPERTY OF THE COMPANY OR ANY GUARANTOR, ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED.**

Section 10.11 **Confidentiality.**

The Administrative Agent, each Lender and any Affiliates thereof agree to keep confidential all non-public information, materials and documents furnished by the Company to the Administrative Agent and the Lenders pursuant to this Agreement (the "Confidential Information"). Notwithstanding the foregoing, such party shall be permitted to disclose Confidential Information (a) to such of its officers, directors, employees, agents, representatives and professional advisors in any of the transactions contemplated by, or the administration of, this Agreement; (b) to the extent required by applicable laws and regulations or by any subpoena or similar legal process, or requested by any governmental agency or authority; (c) to the extent such Confidential Information (i) becomes publicly available other than as a result of a breach of this Section 10.11 by the disclosing party, or (ii) becomes available to such party on a non-confidential basis from a source other than the Company or its Subsidiaries which to such party's knowledge is not prohibited from disclosing such Confidential Information to such party by a contractual or other legal obligation; (d) to the extent the Company or any of its Subsidiaries shall have consented to such disclosure in writing; or (e) to any prospective transferee or participant in connection with any contemplated transfer of the Notes or any interest therein provided such transferee or participant agrees to treat the Confidential Information in a manner consistent with this Section 10.11. Nothing herein shall prohibit the disclosure of Confidential Information in connection with any litigation or where such disclosure is pursuant to applicable

laws, regulations, court order or similar legal process; provided, however, in the event that such party is requested or required by law to disclose any of the Confidential Information, such party shall provide the Company with written notice, unless notice is prohibited by law, of any such request or requirement so that the Company may seek a protective order or other appropriate remedy; provided that no such notification shall be required in respect of any disclosure to regulatory authorities having jurisdiction over such party.

Section 10.12 Provisions Regarding Co-Syndication Agents, Co-Documentation Agents, and Managing Agent.

The Co-Syndication Agents, the Co-Documentation Agents and the Managing Agent shall have no duties or responsibilities hereunder.

Section 10.13 Headings.

Section headings used herein are for convenience of reference only and are not to affect the construction of or be taken into consideration in interpreting this Agreement.

Section 10.14 Construction.

This Agreement is the result of negotiations between, and has been reviewed by, each of the Company, the Administrative Agent, the Lenders and their respective counsel. Accordingly, this Agreement shall be deemed to be the product of each party hereto, and no ambiguity shall be construed in favor of or against either the Company, the Administrative Agent, or any Lender.

Section 10.15 Counterparts.

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

Section 10.16 No Advisory or Fiduciary Responsibility.

In connection with all aspects of each transaction contemplated hereby, the Company acknowledges and agrees that: (i) the credit extensions provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document) are arm's-length commercial transactions between the Company and its Affiliates, on the one hand, and the Administrative Agent and the Lead Arranger, on the other hand, and the Company is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents (including any amendment, waiver or other modification hereof or thereof); (ii) in connection with the process leading to such transaction, the Administrative Agent and the Lead Arranger each is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary, for the Company or any of its Affiliates, stockholders, creditors or employees or any other Person; (iii) neither the Administrative Agent nor the Lead Arranger has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Company with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment,

waiver or other modification hereof or of any other Loan Document (irrespective of whether the Administrative Agent or the Lead Arranger has advised or is currently advising the Company or any of its Affiliates on other matters) and neither the Administrative Agent nor the Lead Arranger has any obligation to the Company or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; (iv) the Administrative Agent and the Lead Arranger and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Company and its Affiliates, and neither the Administrative Agent nor the Lead Arranger has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (v) the Administrative Agent and the Lead Arranger have not provided and will not provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Loan Document) and the Company has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. The Company hereby waives and releases, to the fullest extent permitted by law, any claims that it may have against the Administrative Agent and the Lead Arranger with respect to any breach or alleged breach of agency or fiduciary duty in connection with the transactions contemplated by this Agreement.

Section 10.17 USA Patriot Act Notice

Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Company that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies the Company, which information includes the name and address of the Company and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Company in accordance with the Act.

[Remainder of page intentionally left blank. Signature pages to follow.]

IN WITNESS WHEREOF, the Company, the Administrative Agent and the Lenders have caused this Agreement to be duly executed by their duly authorized officers, as of the day and year first above written.

THE HAIN CELESTIAL GROUP, INC.

By: /s/ Ira J. Lamel

Name: Ira J. Lamel

Title: Executive Vice President, Chief

Financial Officer, Treasurer and Secretary

**Bank of America, N.A.
as Administrative Agent**

By: /s/ Carol G. Alm
Name: Carol G. Alm
Title:

Bank of America, N.A.
Agency Management
100 Federal Street
Mail Stop MA5 1001102
Boston, MA 02110

Revolving Credit

Commitment: \$32,000,000

**BANK OF AMERICA, N.A.,
as a Lender, as Swingline Lender
and as an Issuing Lender**

By: /s/ Steven J. Melicharek

Name: Steven J. Melicharek

Title: SVP Senior Credit Products Officer

Lending Office for Base Rate Loans
and for Adjusted Libor Loans:

Bank of America, N.A.
1185 Avenue of the Americas
New York, NY 10036
Attention: SVP Senior Credit
Products Officer
Telephone: (212) 819-6002
Telecopy: (212) 819-6166

Address for Notices:

Bank of America, N.A.
1185 Avenue of the Americas
New York, NY 10036
Attention: SVP Senior Credit
Products Officer
Telephone: (212) 819-6002
Telecopy: (212) 819-6166

Revolving Credit

Commitment: \$25,000,000

**NORTH FORK BANK,
as a Lender and as Managing Agent**

By: /s/ Robert J. Milas
Name: Robert J. Milas
Title: Vice President

Lending Office for Base Rate Loans
and for Adjusted Libor Loans:

North Fork Bank
275 Broad Hollow Road
Melville, NY 11747
Attention: Robert J. Milas
Vice President
Telephone: (631) 531-2394
Telecopy: (631) 531-2797

Address for Notices:

North Fork Bank
275 Broad Hollow Road
Melville, NY 11747
Attention: Robert J. Milas
Vice President
Telephone: (631) 531-2394
Telecopy: (631) 531-2797

Revolving Credit
Commitment: \$27,000,000

HSBC BANK USA,
as a Lender and as Co-
Documentation Agent

By: /s/ Christopher J. Mendelsohn
Name: Christopher J. Mendelsohn
Title: First Vice President

Lending Office for Base Rate Loans
and for Adjusted Libor Loans:

HSBC Bank USA
534 Broad Hollow Road
Melville, New York 11747
Attention: Christopher J.
Mendelsohn, First Vice President
Telephone: (631) 752-4343
Telecopy: (631) 752-4340

Address for Notices:

HSBC Bank USA
534 Broad Hollow Road
Melville, New York 11747
Attention: Christopher J.
Mendelsohn, First Vice President
Telephone: (631) 752-4343
Telecopy: (631) 752-4340

Revolving Credit

Commitment; \$27,000,000

**FIRST PIONEER FARM
CREDIT, ACA,
as a Lender and as Co-
Documentation Agent**

By: /s/ Carol L. Sobson

By: Carol L. Sobson

Title: Vice President

Lending Office for Base Rate Loans
and for Adjusted Libor Loans:

First Pioneer Farm Credit, ACA
174 South Road
Enfield, Connecticut 06082
Attention: James D. Miller,
Senior Vice President - Finance
Telephone: (860)741-4380
Telecopy: (860) 741-4389

Address for Notices:

First Pioneer Farm Credit, ACA
174 South Road
Enfield, Connecticut 06082
Attention: Carol L. Sobson, Vice President
Telephone: (860) 741-4380
Telecopy: (860) 741-4389

Revolving Credit

Commitment: \$10,000,000

**THE BANK OF NEW YORK,
as a Lender**

By: /s/ Edward P. Nallan, Jr.

Name: Edward P. Nallan, Jr.

Title: Vice President

Lending Office for Base Rate Loans
and for Adjusted Libor Loans:

The Bank of New York
1401 Franklin Avenue
Garden City, New York 11530
Attention: Edward P. Nallan
Telephone: (516)294-2269
Telecopy: (516) 294-2055

Address for Notices:

The Bank of New York
1401 Franklin Avenue
Garden City, New York 11530
Attention: Edward P. Nallan
Telephone: (516) 294-2269
Telecopy: (516) 294-2055

Revolving Credit

Commitment: \$27,000,000

**KEYBANK NATIONAL
ASSOCIATION,
as a Lender and as Co-Syndication
Agent**

By: /s/ Jeffrey R. Dincher
Name: Jeffrey R. Dincher
Title: Assistant Vice President

Lending Office for Base Rate Loans
and for Adjusted Libor Loans:

KeyBank National Association
127 Public Square
Cleveland, Ohio 44144
Attention: Melissa Pelham
Telephone: (216) 689-0206
Telecopy: (216) 689-5962

Address for Notices:

KeyBank National Association
127 Public Square
Cleveland, Ohio 44144
Attention: Jeff Dincher, Portfolio
Manager
Telephone: (216) 689-5562
Telecopy: (216)689-4981

Revolving Credit
Commitment: \$27,000,000

CITIBANK, N.A.,
as a Lender and as Co-Syndication
Agent

By: /s/ William A. DeMilt, Jr.
Name: William A. DeMilt, Jr.
Title: Vice President

Lending Office for Base Rate Loans
and for Adjusted Libor Loans:

Citibank, N.A.
1 Reckson Plaza
Uniondale, New York 11556
Attention: Joann Alter
Telephone: (516) 296-6173
Telecopy: (212) 296-5394

Address for Notices:

Citibank, N.A.
1 Reckson Plaza
Uniondale, New York 11556
Attention: Joann Alter
Telephone: (516) 296-6173
Telecopy: (212) 296-5394

Revolving Credit
Commitment: \$15,000,000

**JPMorgan Chase Bank, N.A.,
as a Lender**

By: /s/ Jules Panno
Name: Jules Panno
Title: Vice President

Lending Office for Base Rate Loans
and for Adjusted Libor Loans:

JPMorgan Chase Bank, N.A.
395 North Service Road - 3rd Floor
Melville, NY 11747
Attention: Jules Panno
Telecopy: (631) 755-5184

Address for Notices:

JPMorgan Chase Bank, N.A.
395 North Service Road - 3rd Floor
Melville, NY 11747
Attention: John Budzynski
Telephone: (631) 755-5179
Telecopy: (631) 755-5184

Revolving Credit
Commitment: \$15,000,000

KBC BANK N.V.,
as a Lender

By: /s/ Michael Curran
Name: Michael Curran
Title: First Vice President

By: /s/ Robert M. Surdam
Name: Robert M. Surdam
Title: Vice President

Lending Office for Base Rate Loans:

KBC Bank N.V., New York Branch
125 West 55th Street
New York, New York 10019
Attention: Rose Pagan
Telephone: (212)541-0657
Telecopy: (212) 956-5581

Lending Office for Adjusted Libor Loans:

KBC Bank N.V., Grand Cayman Branch
125 West 55th Street
New York, New York 10019
Attention: Rose Pagan
Telephone: (212) 541-0657
Telecopy: (212)956-5581

Address for Notices:

KBC Bank N.V.
125 West 55th Street
New York, New York 10019
Attention: Robert Surdam
Telephone: (212) 541-0704
Telecopy: (212) 541-0793

Revolving Credit

Commitment: \$25,000,000

COBANK, ACB, as a Lender

By: /s/ Mary Beth Curry

Name: Mary Beth Curry

Title: Vice President

Lending Office for Base Rate Loans
and for Adjusted Libor Loans:

CoBank, ACB
5500 S. Quebec Street
Greenwood Village, Colorado 80111
Attention: Deann Sullivan
Telephone: (303) 740-4315
Telecopy: (303) 740-4021

Address for Notices:

CoBank, ACB
5500 S. Quebec Street
Greenwood Village, Colorado 80111
Attention: Thomas N. Martin, Vice President
Telephone: (303) 740-4312
Telecopy: (303) 224-6119

Revolving Credit

Commitment: \$20,000,000

**Cooperative Centrale Raiffeisen-
Boerenleenbank B.A. "Rabobank
International", New York Branch
as a Lender**

By: /s/ Theodore Cox

Name: Theodore Cox

Title: Executive Director

By: /s/ Rebecca Morrow

Name: Rebecca Morrow

Title: Executive Director

Lending Office for Base Rate Loans
and for Adjusted Libor Loans:

Rabobank International
245 Park Ave
New York, NY 10167
Attention: Ann McDonough
Telephone: 201-499-5318
Telecopy: 201-499-5326

Address for Notices:

Rabobank International
245 Park Ave
New York, NY 10167
Attention: Theodore W. Cox
Telephone: (404) 877-9109
Telecopy: (404)877-9150

Execution Version

The Hain Celestial Group, Inc.

\$150,000,000 Senior Notes
due May 2, 2016

Note Purchase Agreement

Dated as of May 2, 2006

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The Hain Celestial Group, Inc.
58 South Service Road
Melville, NY 11747

\$150,000,000 Senior Notes

due May 2, 2016

Dated as of

May 2, 2006

To the Purchasers listed in
the attached Schedule A:

Ladies and Gentlemen:

The Hain Celestial Group, Inc., a Delaware corporation (the “*Company*”), agrees with the Purchasers listed in the attached Schedule A (the “*Purchasers*”) to this Note Purchase Agreement (this “*Agreement*”) as follows:

Section 1. Authorization of Notes.

Section 1.1. Description of Notes. The Company will authorize the issue and sale of the following Senior Notes:

Issue	Aggregate Principal Amount	Interest Rate	Maturity Date
Senior Notes	\$150,000,000	5.98% (6.23% in accordance with Section 1.2(b))	May 2, 2016

The Senior Notes described above are referred to as the “*Notes*” (such term shall also include any such notes issued in substitution therefor pursuant to Section 13 of this Agreement). The Notes shall be substantially in the form set out in Exhibit 1, with such changes therefrom, if any, as may be approved by the Purchasers and the Company. Certain capitalized terms used in this Agreement are defined in Schedule B; references to a “*Schedule*” or an “*Exhibit*” are, unless otherwise specified, to a Schedule or an Exhibit attached to this Agreement.

Section 1.2. Interest Rate. (a) The Notes shall bear interest (computed on the basis of a 360-day year of twelve 30-day months) on the unpaid principal thereof from the date of issuance at the Applicable Interest Rate then in effect payable semi-annually in arrears on the 2nd day of May and November and at maturity, commencing on November 2, 2006, until such principal

sum shall have become due and payable (whether at maturity, upon notice of prepayment or otherwise) and interest (so computed) on any overdue principal, interest or Make-Whole Amount from the due date thereof (whether by acceleration or otherwise) at the applicable Default Rate until paid.

(b) If, during a Transition Period, the Consolidated Debt to Consolidated EBITDA ratio exceeds 3.5 to 1.00, as evidenced by an Officer's Certificate delivered pursuant to Section 7.2(a), the interest rate payable on the Notes shall be increased by 0.25%, commencing on the first day of the first fiscal quarter following the fiscal quarter in respect of which such Certificate was delivered and continuing until the Company has provided an Officer's Certificate pursuant to Section 7.2(a) demonstrating that, as of the end of the fiscal quarter in respect of which such Certificate is delivered, the Consolidated Debt to Consolidated EBITDA ratio is not more than 3.5 to 1.0. Following delivery of an Officer's Certificate demonstrating that the Consolidated Debt to Consolidated EBITDA ratio did not exceed 3.5 to 1.0, the additional 0.25% interest shall cease to accrue or be payable for any fiscal quarter subsequent to the fiscal quarter in respect of which such Certificate is delivered.

Section 2. Sale and Purchase of Notes.

Section 2.1. Notes. Subject to the terms and conditions of this Agreement, the Company will issue and sell to each Purchaser and each Purchaser will purchase from the Company, at the Closing provided for in Section 3, the Notes in the principal amount specified opposite such Purchaser's name in Schedule A at the purchase price of 100% of the principal amount thereof. The obligations of each Purchaser hereunder are several and not joint obligations and each Purchaser shall have no obligation and no liability to any Person for the performance or nonperformance by any other Purchaser hereunder.

Section 2.2. Subsidiary Guaranty. (a) The payment by the Company of all amounts due with respect to the Notes and the performance by the Company of its obligations under this Agreement will be absolutely and unconditionally guaranteed by the Subsidiary Guarantors pursuant to the Subsidiary Guaranty Agreement dated as of even date herewith, which shall be substantially in the form of Exhibit 2.2 attached hereto, and otherwise in accordance with the provisions of Section 9.6 hereof (the "*Subsidiary Guaranty*").

(b) The holders of the Notes agree to discharge and release any Subsidiary Guarantor from the Subsidiary Guaranty upon the written request of the Company, *provided* that (i) such Subsidiary Guarantor has been released and discharged (or will be released and discharged concurrently with the release of such Subsidiary Guarantor under the Subsidiary Guaranty) as an obligor and guarantor under and in respect of the Bank Credit Agreement and the Company so certifies to the holders of the Notes in a certificate of a Responsible Officer, (ii) at the time of such release and discharge, the Company shall deliver a certificate of a Responsible Officer to the holders of the Notes stating that no Default or Event of Default exists or will exist upon such release, and (iii) if any fee or other form of consideration is given to any holder of Debt of the Company expressly for the purpose of such release, holders of the Notes shall receive equivalent consideration (a "*Collateral Release*").

Section 3. Closing.

The sale and purchase of the Notes to be purchased by each Purchaser shall occur at the offices of Chapman and Cutler LLP, 111 West Monroe Street, Chicago, Illinois at 10:00 a.m. Central time, at a closing (the "*Closing Date*") on May 2, 2006 or on such other Business Day thereafter on or prior to May 31, 2006 as may be agreed upon by the Company and the Purchasers. On the Closing Date, the Company will deliver to each Purchaser the Notes to be purchased by such Purchaser in the form of a single Note (or such greater number of Notes in denominations of at least \$100,000 as such Purchaser may request) dated the date of the Closing Date and registered in such Purchaser's name (or in the name of such Purchaser's nominee), against delivery by such Purchaser to the Company or its order of immediately available funds in the amount of the purchase price therefor by wire transfer of immediately available funds for the account of the Company to Account Number 9428438565, at Bank of America, Melville, New York, ABA Number 0260-0959-3, in the Account Name of "The Hain Celestial Group, Inc." If, on the Closing Date, the Company shall fail to tender such Notes to any Purchaser as provided above in this Section 3, or any of the conditions specified in Section 4 shall not have been fulfilled to any Purchaser's satisfaction, such Purchaser shall, at such Purchaser's election, be relieved of all further obligations under this Agreement, without thereby waiving any rights such Purchaser may have by reason of such failure or such nonfulfillment.

Section 4. Conditions to Closing.

Each Purchaser's obligation to purchase and pay for the Notes to be sold to such Purchaser at the Closing is subject to the fulfillment to such Purchaser's satisfaction, prior to or at the Closing, of the following conditions applicable to the Closing Date:

Section 4.1. Representations and Warranties.

(a) *Representations and Warranties of the Company.* The representations and warranties of the Company in this Agreement shall be correct when made and at the time of the Closing.

(b) *Representations and Warranties of the Subsidiary Guarantors.* The representations and warranties of the Subsidiary Guarantors in the Subsidiary Guaranty shall be correct when made and at the time of the Closing.

Section 4.2. Performance; No Default. The Company and each Subsidiary Guarantor shall have performed and complied with all agreements and conditions contained in this Agreement and the Subsidiary Guaranty required to be performed or complied with by the Company and each such Subsidiary Guarantor prior to or at the Closing, and after giving effect to the issue and sale of the Notes (and the application of the proceeds thereof as contemplated by Section 5.14), no Default or Event of Default shall have occurred and be continuing. Neither the Company nor any Subsidiary shall have entered into any transaction since the date of the Memorandum that would have been prohibited by Section 10 hereof had such Sections applied since such date.

Section 4.3. Compliance Certificates.

(a) *Officer's Certificate of the Company.* The Company shall have delivered to such Purchaser an Officer's Certificate, dated the Closing Date, certifying that the conditions specified in Sections 4.1, 4.2 and 4.9 have been fulfilled.

(b) *Secretary's Certificate of the Company.* The Company shall have delivered to such Purchaser a certificate, dated the Closing Date, certifying as to the resolutions attached thereto and other corporate proceedings relating to the authorization, execution and delivery of the Notes and this Agreement.

(c) *Officer's Certificate of the Subsidiary Guarantors.* Each Subsidiary Guarantor shall have delivered to such Purchaser an Officer's Certificate, dated the Closing Date, certifying that the conditions specified in Sections 4.1(b), 4.2 and 4.9 have been fulfilled.

(d) *Secretary's Certificate of the Subsidiary Guarantors.* Each Subsidiary Guarantor shall have delivered to such Purchaser a certificate, dated the Closing Date, certifying as to the resolutions attached thereto and other corporate proceedings relating to the authorization, execution and delivery of the Subsidiary Guaranty.

Section 4.4. Opinions of Counsel. Such Purchaser shall have received opinions in form and substance satisfactory to such Purchaser, dated the Closing Date (a) from Denise M. Faltischek, Esq., Associate General Counsel of the Company, covering the matters set forth in Exhibit 4.4(a) and covering such other matters incident to the transactions contemplated hereby as such Purchaser or its counsel may reasonably request (and the Company hereby instructs its counsel to deliver such opinion to the Purchasers), (b) from Cahill Gordon & Reindel LLP, special counsel for the Company, covering the matters set forth in Exhibit 4.4(b) and covering such other matters incident to the transactions contemplated hereby as such Purchaser or its counsel may reasonably request (and the Company hereby instructs its counsel to deliver such opinion to the Purchasers), and (c) from Chapman and Cutler LLP, the Purchasers' special counsel in connection with such transactions, substantially in the form set forth in Exhibit 4.4(c) and covering such other matters incident to such transactions as such Purchaser may reasonably request.

Section 4.5. Purchase Permitted by Applicable Law, Etc. On the date of the Closing such Purchaser's purchase of Notes shall (a) be permitted by the laws and regulations of each jurisdiction to which such Purchaser is subject, without recourse to provisions (such as section 1405(a)(8) of the New York Insurance Law) permitting limited investments by insurance companies without restriction as to the character of the particular investment, (b) not violate any applicable law or regulation (including, without limitation, Regulation T, U or X of the Board of Governors of the Federal Reserve System) and (c) not subject such Purchaser to any tax, penalty or liability under or pursuant to any applicable law or regulation, which law or regulation was not in effect on the date hereof. If requested by such Purchaser, such Purchaser shall have received an Officer's Certificate certifying as to such matters of fact as such Purchaser may reasonably specify to enable such Purchaser to determine whether such purchase is so permitted.

Section 4.6. Sale of Other Notes. Contemporaneously with the Closing the Company shall sell to each other Purchaser and each other Purchaser shall purchase the Notes to be purchased by it at the Closing as specified in Schedule A.

Section 4.7. Payment of Special Counsel Fees. Without limiting the provisions of Section 15.1, the Company shall have paid on or before the Closing Date, the reasonable fees, reasonable charges and reasonable disbursements of the Purchasers' special counsel referred to in Section 4.4 to the extent reflected in a statement of such counsel rendered to the Company at least one Business Day prior to the Closing Date.

Section 4.8. Private Placement Number. A Private Placement Number issued by Standard & Poor's CUSIP Service Bureau (in cooperation with the Securities Valuation Office of the National Association of Insurance Commissioners) shall have been obtained for the Notes.

Section 4.9. Changes in Corporate Structure. Neither the Company nor any Subsidiary Guarantor shall have changed its jurisdiction of organization or, except as reflected in Schedule 4.9, been a party to any merger or consolidation, or shall have succeeded to all or any substantial part of the liabilities of any other entity, at any time following the date of the most recent financial statements referred to in Schedule 5.5.

Section 4.10. Subsidiary Guaranty. The Subsidiary Guaranty shall have been duly authorized, executed and delivered by each Subsidiary Guarantor, shall constitute the legal, valid and binding contract and agreement of each Subsidiary Guarantor and such Purchaser shall have received a true, correct and complete copy thereof.

Section 4.11. Funding Instructions. At least three Business Days prior to the date of the Closing, each Purchaser shall have received written instructions signed by a Responsible Officer on letterhead of the Company confirming the information specified in Section 3 including (i) the name and address of the transferee bank, (ii) such transferee bank's ABA number and (iii) the account name and number into which the purchase price for the Notes is to be deposited.

Section 4.12. Proceedings and Documents. All corporate and other organizational proceedings in connection with the transactions contemplated by this Agreement and all documents and instruments incident to such transactions shall be reasonably satisfactory to such Purchaser and its special counsel, and such Purchaser and its special counsel shall have received all such counterpart originals or certified or other copies of such documents as such Purchaser or such special counsel may reasonably request.

Section 5. Representations and Warranties of the Company.

The Company represents and warrants to each Purchaser that:

Section 5.1. Organization; Power and Authority. The Company is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation, and is duly qualified as a foreign corporation and is in good standing in each jurisdiction in which such qualification is required by law, other than those jurisdictions as to

which the failure to be so qualified or in good standing would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The Company has the corporate power and authority to own or hold under lease the properties it purports to own or hold under lease, to transact the business it transacts and proposes to transact, to execute and deliver this Agreement and the Notes and to perform the provisions hereof and thereof.

Section 5.2. Authorization, Etc. This Agreement and the Notes to be issued on the Closing Date have been duly authorized by all necessary corporate action on the part of the Company, and this Agreement constitutes, and upon execution and delivery thereof each such Note will constitute, a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

Section 5.3. Disclosure. The Company, through its agent, Banc of America Securities LLC, has delivered to you and each Other Purchaser a copy of a Private Placement Memorandum, dated April, 2006 (the "*Memorandum*"), relating to the transactions contemplated hereby. The Memorandum fairly describes, in all material respects, the general nature of the business and principal properties of the Company and its Restricted Subsidiaries. This Agreement, the Memorandum, the documents, certificates or other writings delivered to the Purchasers by or on behalf of the Company in connection with the transactions contemplated hereby and listed on Schedule 5.3 hereto, and the financial statements listed in Schedule 5.5, in each case, delivered to the Purchasers prior to April 13, 2006 (this Agreement, the Memorandum and such documents, certificates or other writings and such financial statements being referred to, collectively, as the "*Disclosure Documents*"), taken as a whole, do not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein not misleading in the light of the circumstances under which they were made. Except as disclosed in the Disclosure Documents, since June 30, 2005, there has been no change in the financial condition, operations, business or properties of the Company or any of its Restricted Subsidiaries except changes that individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect. There is no fact known to the Company that would reasonably be expected to have a Material Adverse Effect that has not been set forth herein or in the Disclosure Documents.

Section 5.4. Organization and Ownership of Shares of Subsidiaries; Affiliates. (a) Schedule 5.4 contains (except as noted therein) complete and correct lists (i) of the Company's Restricted and Unrestricted Subsidiaries, showing, as to each Subsidiary, the correct name thereof, the jurisdiction of its organization, and the percentage of shares of each class of its capital stock or similar equity interests outstanding owned by the Company and each other Subsidiary, and all other Investments of the Company and its Restricted Subsidiaries, (ii) of the Company's Affiliates, other than Subsidiaries and other than individuals described in clause (iii) below, and (iii) of the Company's directors and senior officers.

(b) All of the outstanding shares of capital stock or similar equity interests of each Subsidiary shown in Schedule 5.4 as being owned by the Company and its Subsidiaries have

been validly issued, are fully paid and nonassessable and are owned by the Company or another Subsidiary free and clear of any Lien (except as otherwise disclosed in Schedule 5.4).

(c) Each Subsidiary identified in Schedule 5.4 is a corporation or other legal entity duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, and is duly qualified as a foreign corporation or other legal entity and is in good standing in each jurisdiction in which such qualification is required by law, other than those jurisdictions as to which the failure to be so qualified or in good standing would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Each such Subsidiary has the corporate or other power and authority to own or hold under lease the properties it purports to own or hold under lease and to transact the business it transacts and proposes to transact.

(d) No Subsidiary is a party to, or otherwise subject to, any legal restriction or any agreement (other than this Agreement, the agreements listed on Schedule 5.4 and customary limitations imposed by corporate law statutes) restricting the ability of such Subsidiary to pay dividends out of profits or make any other similar distributions of profits to the Company or any of its Subsidiaries that owns outstanding shares of capital stock or similar equity interests of such Subsidiary.

Section 5.5. Financial Statements; Material Liabilities. The Company has delivered to each Purchaser copies of the financial statements of the Company and its Subsidiaries listed on Schedule 5.5. All of said financial statements (including in each case the related schedules and notes) fairly present in all material respects the consolidated financial position of the Company and its Subsidiaries as of the respective dates specified in such Schedule and the consolidated results of their operations and cash flows for the respective periods so specified and have been prepared in accordance with GAAP consistently applied throughout the periods involved except as set forth in the notes thereto (subject, in the case of any interim financial statements, to normal year-end adjustments). The Company and its Subsidiaries do not have any Material liabilities that are not disclosed on such financial statements or otherwise disclosed in the Disclosure Documents.

Section 5.6. Compliance with Laws, Other Instruments, Etc. The execution, delivery and performance by the Company of this Agreement and the Notes will not (a) contravene, result in any breach of, or constitute a default under, or result in the creation of any Lien in respect of any property of the Company or any Subsidiary under, any indenture, mortgage, deed of trust, loan, purchase or credit agreement, lease, corporate charter or by-laws, or any other agreement or instrument to which the Company or any Subsidiary is bound or by which the Company or any Subsidiary or any of their respective properties may be bound or affected, (b) conflict with or result in a breach of any of the terms, conditions or provisions of any order, judgment, decree, or ruling of any court, arbitrator or Governmental Authority applicable to the Company or any Subsidiary, or (c) violate any provision of any statute or other rule or regulation of any Governmental Authority applicable to the Company or any Subsidiary.

Section 5.7. Governmental Authorizations, Etc. No consent, approval or authorization of, or registration, filing or declaration with, any Governmental Authority is required in

connection with the execution, delivery or performance by the Company of this Agreement or the Notes.

Section 5.8. Litigation; Observance of Agreements, Statutes and Orders. (a) There are no actions, suits, investigations or proceedings pending or, to the knowledge of the Company, threatened against or affecting the Company or any Restricted Subsidiary or any property of the Company or any Restricted Subsidiary in any court or before any arbitrator of any kind or before or by any Governmental Authority that, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect.

(b) Neither the Company nor any Restricted Subsidiary is in default under any term of any agreement or instrument to which it is a party or by which it is bound, or any order, judgment, decree or ruling of any court, arbitrator or Governmental Authority or is in violation of any applicable law, ordinance, rule or regulation (including without limitation Environmental Laws or the USA Patriot Act) of any Governmental Authority, which default or violation, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect.

Section 5.9. Taxes. The Company and its Subsidiaries have filed all tax returns that are required to have been filed in any jurisdiction, and have paid all taxes shown to be due and payable on such returns and all other taxes and assessments levied upon them or their properties, assets, income or franchises, to the extent such taxes and assessments have become due and payable and before they have become delinquent, except for any taxes and assessments (a) the amount of which is not individually or in the aggregate Material or (b) the amount, applicability or validity of which is currently being contested in good faith by appropriate proceedings and with respect to which the Company or a Subsidiary, as the case may be, has established adequate reserves in accordance with GAAP. The Company knows of no basis for any other tax or assessment that would reasonably be expected to have a Material Adverse Effect. The charges, accruals and reserves on the books of the Company and its Subsidiaries in respect of federal, state or other taxes for all fiscal periods are adequate. The federal income tax liabilities of the Company and its Subsidiaries have been finally determined (whether by reason of completed audits or the statute of limitations having run) for all fiscal years up to and including the fiscal year ended June 30, 2002.

Section 5.10. Title to Property; Leases. The Company and its Restricted Subsidiaries have good and sufficient title to their respective properties which the Company and its Restricted Subsidiaries own or purport to own that individually or in the aggregate are Material, including all such properties reflected in the most recent audited balance sheet referred to in Section 5.5 or purported to have been acquired by the Company or any Restricted Subsidiary after said date (except as sold or otherwise disposed of in the ordinary course of business or no longer used or useful in the conduct of their respective businesses), in each case free and clear of Liens prohibited by this Agreement. All leases that individually or in the aggregate are Material are valid and subsisting and are in full force and effect in all material respects.

Section 5.11. Licenses, Permits, Etc. Except as disclosed in Schedule 5.11,

(a) the Company and its Restricted Subsidiaries own or possess all licenses, permits, franchises, authorizations, patents, copyrights, proprietary software, service marks, trademarks and trade names, or rights thereto (collectively, “*Intellectual Property*”), that individually or in the aggregate are Material, without known conflict with the rights of others;

(b) to the best knowledge of the Company, no product of the Company or any of its Restricted Subsidiaries infringes in any Material respect any Intellectual Property owned by any other Person; and

(c) to the best knowledge of the Company, there is no Material violation by any Person of any right of the Company or any of its Restricted Subsidiaries with respect to any Intellectual Property owned or used by the Company or any of its Restricted Subsidiaries.

Section 5.12. Compliance with ERISA. (a) The Company and, in the case of any ERISA controlled group penalties and liabilities, each ERISA Affiliate have operated and administered each Plan in compliance with all applicable laws except for such instances of noncompliance as have not resulted in and would not reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any ERISA Affiliate has incurred any liability pursuant to Title I or IV of ERISA or the penalty or excise tax provisions of the Code relating to Plans, and no event, transaction or condition has occurred or exists that would reasonably be expected to result in the incurrence of any such liability by the Company, in the case of any ERISA controlled group liabilities, or any ERISA Affiliate, or in the imposition of any Lien on any of the rights, properties or assets of the Company or any ERISA Affiliate, in either case pursuant to Title I or IV of ERISA or to such penalty or excise tax provisions or to section 401(a)(29) or 412 of the Code or section 4068 of ERISA, other than such liabilities or Liens as would not be individually or in the aggregate Material.

(b) The present value of the aggregate benefit liabilities under each of the Plans subject to Title IV of ERISA (other than Multiemployer Plans), determined as of the end of such Plan’s most recently ended plan year on the basis of the actuarial assumptions specified for funding purposes in such Plan’s most recent actuarial valuation report, did not exceed the aggregate current value of the assets of such Plan allocable to such benefit liabilities by more than \$10,000,000 in the aggregate for all Plans. The term “*benefit liabilities*” has the meaning specified in section 4001 of ERISA and the terms “*current value*” and “*present value*” have the meaning specified in section 3 of ERISA.

(c) The Company and its ERISA Affiliates have not incurred any withdrawal liabilities (and are not subject to contingent withdrawal liabilities) under section 4201 or 4204 of ERISA in respect of Multiemployer Plans that individually or in the aggregate are Material.

(d) The expected post-retirement benefit obligation (determined as of the last day of the Company’s most recently ended fiscal year in accordance with Financial Accounting Standards

Board Statement No. 106, without regard to liabilities attributable to continuation coverage mandated by section 4980B of the Code) of the Company and its Subsidiaries is not Material.

(e) The execution and delivery of this Agreement and the issuance and sale of the Notes hereunder will not involve any transaction that is subject to the prohibitions of Section 406(a) of ERISA or in connection with which a tax would be imposed pursuant to Section 4975(c)(1)(A)-(D) of the Code. The representation by the Company in the first sentence of this Section 5.12(e) is made in reliance upon and subject to the accuracy of each Purchaser's representation in Section 6.3 as to the sources of the funds to be used to pay the purchase price of the Notes to be purchased by such Purchaser.

Section 5.13. Private Offering by the Company. Neither the Company nor anyone acting on the Company's behalf has offered the Notes or any similar securities for sale to, or solicited any offer to buy any of the same from, or otherwise approached or negotiated in respect thereof with, any Person other than the Purchasers and not more than 50 other Institutional Investors, each of which has been offered the Notes in connection with a private sale for investment. Neither the Company nor anyone acting on its behalf has taken, or will take, any action that would subject the issuance or sale of the Notes to the registration requirements of Section 5 of the Securities Act or to the registration requirements of any securities or blue sky laws of any applicable jurisdiction.

Section 5.14. Use of Proceeds; Margin Regulations. The Company will apply the proceeds of the sale of the Notes to refinance existing Debt and for general corporate purposes of the Company. No part of the proceeds from the sale of the Notes hereunder will be used, directly or indirectly, for the purpose of buying or carrying any margin stock within the meaning of Regulation U of the Board of Governors of the Federal Reserve System (12 CFR 221), or for the purpose of buying or carrying or trading in any securities under such circumstances as to involve the Company in a violation of Regulation X of said Board (12 CFR 224) or to involve any broker or dealer in a violation of Regulation T of said Board (12 CFR 220). Margin stock does not constitute more than 5% of the value of the consolidated assets of the Company and its Subsidiaries and the Company does not have any present intention that margin stock will constitute more than 5% of the value of such assets. As used in this Section, the terms "*margin stock*" and "*purpose of buying or carrying*" shall have the meanings assigned to them in said Regulation U.

Section 5.15. Existing Debt; Future Liens. (a) Except as described therein, Schedule 5.15 sets forth a complete and correct list of all outstanding Debt of the Company and its Restricted Subsidiaries as of March 31, 2006, since which date there has been no Material change in the amounts, interest rates, sinking funds, installment payments or maturities of the Debt of the Company or its Restricted Subsidiaries. Neither the Company nor any Restricted Subsidiary is in default and no waiver of default is currently in effect, in the payment of any principal or interest on any Debt of the Company or such Restricted Subsidiary, and no event or condition exists with respect to any Debt of the Company or any Restricted Subsidiary, that would permit (or that with notice or the lapse of time, or both, would permit) one or more Persons to cause such Debt to become due and payable before its stated maturity or before its regularly scheduled dates of payment.

(b) Except as disclosed in Schedule 5.15, neither the Company nor any Restricted Subsidiary has agreed or consented to cause or permit in the future (upon the happening of a contingency or otherwise) any of its property, whether now owned or hereafter acquired, to be subject to a Lien not permitted by Section 10.3.

(c) Neither the Company nor any Subsidiary is a party to, or otherwise subject to any provision contained in, any instrument evidencing Debt of the Company or such Subsidiary, any agreement relating thereto or any other agreement (including, but not limited to, its charter or other organizational document) which limits the amount of, or otherwise imposes restrictions on the incurring of, Debt of the Company, except as specifically indicated in Schedule 5.15.

Section 5.16. Foreign Assets Control Regulations, Etc. (a) Neither the sale of the Notes by the Company hereunder nor its use of the proceeds thereof will violate the Trading with the Enemy Act, as amended, or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto.

(b) Neither the Company nor any Subsidiary is a Person described or designated in the Specially Designated Nationals and Blocked Persons List of the Office of Foreign Assets Control or in Section 1 of the Anti-Terrorism Order or, to the knowledge of the Company, engages in any dealings or transactions with any such Person. The Company and its Subsidiaries are in compliance, in all material respects, with the USA Patriot Act.

(c) No part of the proceeds from the sale of the Notes hereunder will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended, assuming in all cases that such Act applies to the Company.

Section 5.17. Status under Certain Statutes. Neither the Company nor any Restricted Subsidiary is an “investment company” registered or required to be registered under the Investment Company Act of 1940, as amended, or is subject to regulation under the ICC Termination Act of 1995, as amended, or the Federal Power Act, as amended.

Section 5.18. Environmental Matters. (a) Neither the Company nor any Restricted Subsidiary has knowledge of any liability or has received any written notice of any liability under or violation of any Environmental Law, and no proceeding has been instituted alleging any liability under or violation of any Environmental Law against the Company or any of its Restricted Subsidiaries or any of their respective real properties now or formerly owned, leased or operated by any of them, or other assets, except, in each case, such as would not reasonably be expected to result in a Material Adverse Effect.

(b) Neither the Company nor any Restricted Subsidiary has knowledge of any facts which would give rise to any liability under or violation of any Environmental Law related to real properties or other assets now or formerly owned, leased or operated by any of them or

their use, except, in each case, such as would not reasonably be expected to result in a Material Adverse Effect.

(c) Neither the Company nor any of its Restricted Subsidiaries has stored any Hazardous Materials on real properties now or formerly owned, leased or operated by any of them or has disposed of any Hazardous Materials in each case in violation of any Environmental Laws in each case in any manner that would reasonably be expected to result in a Material Adverse Effect.

(d) All buildings on all real properties now owned, leased or operated by the Company or any of its Restricted Subsidiaries are in compliance with applicable Environmental Laws, except where failure to comply would not reasonably be expected to result in a Material Adverse Effect.

Section 5.19. Notes Rank Pari Passu. The obligations of the Company under this Agreement and the Notes rank *pari passu* in right of payment with all other senior unsecured Debt (actual or contingent) of the Company, including, without limitation, all senior unsecured Debt of the Company described in Schedule 5.15 hereto.

Section 6. Representations of the Purchaser.

Section 6.1. Purchase for Investment. Each Purchaser severally represents that it is purchasing the Notes for its own account or for one or more separate accounts maintained by it or for the account of one or more pension or trust funds and not with a view to the distribution thereof, *provided* that the disposition of such Purchaser's or such pension or trust funds' property shall at all times be within such Purchaser's or such pension or trust funds' control.

Section 6.2. Accredited Investor. Each Purchaser represents that it is an "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act) acting for its own account (and not for the account of others) or as a fiduciary or agent for others (which others are also "accredited investors"). Each Purchaser further represents that such Purchaser has had the opportunity to ask questions of the Company and received answers concerning the terms and conditions of the sale of the Notes. Each Purchaser understands that the Notes have not been registered under the Securities Act and may be resold only if registered pursuant to the provisions of the Securities Act or if an exemption from registration is available, except under circumstances where neither such registration nor such an exemption is required by law, and that the Company is not required to register the Notes.

Section 6.3. Source of Funds. Each Purchaser severally represents that at least one of the following statements is an accurate representation as to each source of funds (a "Source") to be used by such Purchaser to pay the purchase price of the Notes to be purchased by such Purchaser hereunder:

(a) the Source is an "insurance company general account" (as the term is defined in the United States Department of Labor's Prohibited Transaction Exemption ("PTE") 95-60) in respect of which the reserves and liabilities (as defined by the annual

statement for life insurance companies approved by the National Association of Insurance Commissioners (the “*NAIC Annual Statement*”) for the general account contract(s) held by or on behalf of any employee benefit plan together with the amount of the reserves and liabilities for the general account contract(s) held by or on behalf of any other employee benefit plans maintained by the same employer (or affiliate thereof as defined in PTE 95-60) or by the same employee organization in the general account do not exceed 10% of the total reserves and liabilities of the general account (exclusive of separate account liabilities) plus surplus as set forth in the NAIC Annual Statement filed with such Purchaser’s state of domicile; or

(b) the Source is a separate account that is maintained solely in connection with such Purchaser’s fixed contractual obligations under which the amounts payable, or credited, to any employee benefit plan (or its related trust) that has any interest in such separate account (or to any participant or beneficiary of such plan (including any annuitant)) are not affected in any manner by the investment performance of the separate account; or

(c) the Source is either (i) an insurance company pooled separate account, within the meaning of PTE 90-1 or (ii) a bank collective investment fund, within the meaning of the PTE 91-38 and, except as disclosed by such Purchaser to the Company in writing pursuant to this clause (c), no employee benefit plan or group of plans maintained by the same employer or employee organization beneficially owns more than 10% of all assets allocated to such pooled separate account or collective investment fund; or

(d) the Source constitutes assets of an “investment fund” (within the meaning of Part V of PTE 84-14 (the “*QPAM Exemption*”)) managed by a “qualified professional asset manager” or “QPAM” (within the meaning of Part V of the QPAM Exemption), no employee benefit plan’s assets that are included in such investment fund, when combined with the assets of all other employee benefit plans established or maintained by the same employer or by an affiliate (within the meaning of Section V(c)(1) of the QPAM Exemption) of such employer or by the same employee organization and managed by such QPAM, exceed 20% of the total client assets managed by such QPAM, the conditions of Part I(c) and (g) of the QPAM Exemption are satisfied, neither the QPAM nor a person controlling or controlled by the QPAM (applying the definition of “control” in Section V(e) of the QPAM Exemption) owns a 5% or more interest in the Company and (i) the identity of such QPAM and (ii) the names of all employee benefit plans whose assets are included in such investment fund have been disclosed to the Company in writing pursuant to this clause (d); or

(e) the Source constitutes assets of a “plan(s)” (within the meaning of Section IV of PTE 96-23 (the “*INHAM Exemption*”)) managed by an “in-house asset manager” or “INHAM” (within the meaning of Part IV of the INHAM exemption), the conditions of Part I(a), (g) and (h) of the INHAM Exemption are satisfied, neither the INHAM nor a person controlling or controlled by the INHAM (applying the definition of “control” in Section IV(d) of the INHAM Exemption) owns a 5% or more interest in the Company and (i) the identity of such INHAM and (ii) the name(s) of the employee benefit plan(s)

whose assets constitute the Source have been disclosed to the Company in writing pursuant to this clause (e); or

(f) the Source is a governmental plan; or

(g) the Source is one or more employee benefit plans, or a separate account or trust fund comprised of one or more employee benefit plans, each of which has been identified to the Company in writing pursuant to this clause (g); or

(h) the Source does not include assets of any employee benefit plan, other than a plan exempt from the coverage of ERISA.

As used in this Section 6.3, the terms “*employee benefit plan*,” “*governmental plan*,” and “*separate account*” shall have the respective meanings assigned to such terms in section 3 of ERISA.

Section 7. Information as to Company.

Section 7.1. Financial and Business Information. The Company shall deliver to each holder of Notes that is an Institutional Investor:

(a) *Quarterly Statements*— within 60 days after the end of each quarterly fiscal period in each fiscal year of the Company (other than the last quarterly fiscal period of each such fiscal year),

(i) a consolidated balance sheet of the Company and its Subsidiaries as at the end of such quarter, and

(ii) consolidated statements of income, changes in shareholders’ equity and cash flows of the Company and its Subsidiaries, for such quarter and (in the case of the second and third quarters) for the portion of the fiscal year ending with such quarter,

setting forth in each case in comparative form the figures for the corresponding periods in the previous fiscal year, all in reasonable detail, prepared in accordance with GAAP applicable to quarterly financial statements generally, and certified by a Senior Financial Officer as fairly presenting, in all material respects, the financial position of the companies being reported on and their results of operations and cash flows, subject to changes resulting from year-end adjustments, *provided* that filing with the Securities and Exchange Commission within the time period specified above the Company’s Quarterly Report on Form 10-Q prepared in compliance with the requirements therefor shall be deemed to satisfy the requirements of this Section 7.1(a);

(b) *Annual Statements*— within 105 days after the end of each fiscal year of the Company,

(i) a consolidated balance sheet of the Company and its Subsidiaries, as at the end of such year, and

(ii) consolidated statements of income, changes in shareholders' equity and cash flows of the Company and its Subsidiaries, for such year,

setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail, prepared in accordance with GAAP, and accompanied by an opinion thereon of independent certified public accountants of recognized national standing, which opinion shall state that such financial statements present fairly, in all material respects, the financial position of the companies being reported upon and their results of operations and cash flows and have been prepared in conformity with GAAP, and that the examination of such accountants in connection with such financial statements has been made in accordance with generally accepted auditing standards, and that such audit provides a reasonable basis for such opinion in the circumstances, *provided* that filing with the Securities and Exchange Commission within the time period specified above of the Company's Annual Report on Form 10-K for such fiscal year (together with the Company's annual report to shareholders, if any, prepared pursuant to Rule 14a-3 under the Exchange Act) prepared in accordance with the requirements therefor shall be deemed to satisfy the requirements of this Section 7.1(b);

(c) *Consolidated Statements of Unrestricted Subsidiaries* - if one or more Unrestricted Subsidiaries shall either (i) own more than 10% of the total consolidated assets of the Company and its Subsidiaries, or (ii) account for more than 10% of the consolidated gross revenues of the Company and its Subsidiaries, determined in each case in accordance with GAAP, then, within the respective periods provided in Section 7.1(a) and (b) above, the Company shall deliver to each holder of Notes that is an Institutional Investor, unaudited financial statements of the character and for the dates and periods as in said Sections 7.1(a) and (b) covering such group of Unrestricted Subsidiaries (on a consolidated basis), together with a consolidating statement reflecting eliminations or adjustments required to reconcile the financial statements of such group of Unrestricted Subsidiaries to the financial statements delivered pursuant to Sections 7.1(a) and (b);

(d) *SEC and Other Reports*— except for filings referred to in Section 7.1(a) and (b) above, promptly upon their becoming available and, to the extent applicable, one copy of (i) each financial statement, report, notice or proxy statement sent by the Company or any Subsidiary to public securities holders generally, and (ii) each regular or periodic report, each registration statement (without exhibits except as expressly requested by such holder), and each prospectus and all amendments thereto filed by the Company or any Subsidiary with the Securities and Exchange Commission and of all press releases and other statements made available generally by the Company or any Subsidiary to the public concerning developments that are Material; *provided*, that the Company shall be deemed to have made such delivery of the items in clauses (i) and (ii) of this Section 7.1(d) if it shall have timely made such items available on "EDGAR";

(e) *Notice of Default or Event of Default*— promptly, and in any event within five Business Days after a Responsible Officer becomes aware of the existence of any Default or Event of Default or the occurrence or existence of any event or circumstance that in the reasonable judgment of the Company is likely to become a Default or Event of Default, a written notice specifying the nature and period of existence thereof and what action the Company is taking or proposes to take with respect thereto;

(f) *ERISA Matters*— promptly, and in any event within five Business Days after a Responsible Officer becomes aware of any of the following, a written notice setting forth the nature thereof and the action, if any, that the Company or an ERISA Affiliate proposes to take with respect thereto:

(i) with respect to any Plan, any reportable event, as defined in

Section 4043(c) of ERISA and the regulations thereunder, for which notice thereof has not been waived pursuant to such regulations as in effect on the date thereof and which would reasonably be expected to result in a Material Adverse Effect; or

(ii) the taking by the PBGC of steps to institute, or the threatening by the PBGC of the institution of, proceedings under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan, or the receipt by the Company or any ERISA Affiliate of a notice from a Multiemployer Plan that such action has been taken by the PBGC with respect to such Multiemployer Plan; or

(iii) any event, transaction or condition that would result in the incurrence of any liability by the Company (or in the case of any ERISA controlled group liabilities, any ERISA Affiliate) pursuant to Title I or IV of ERISA or the imposition of a penalty or excise tax under the provisions of the Code relating to employee benefit plans, or the imposition of any Lien on any of the rights, properties or assets of the Company or any ERISA Affiliate pursuant to Title I or IV of ERISA or such penalty or excise tax provisions, if such liability or Lien, taken together with any other such liabilities or Liens then existing, would reasonably be expected to have a Material Adverse Effect;

(g) *Notices from Governmental Authority* — promptly, and in any event within 30 days of receipt thereof, copies of any notice to the Company or any Subsidiary from any federal or state Governmental Authority relating to any order, ruling, statute or other law or regulation that would reasonably be expected to have a Material Adverse Effect; and

(h) *Requested Information*— with reasonable promptness, such other data and information relating to the business, operations, affairs, financial condition, assets or properties of the Company or any of its Subsidiaries or relating to the ability of the Company to perform its obligations hereunder and under the Notes as from time to time may be reasonably requested by any such holder of Notes or such information regarding

the Company required to satisfy the requirements of 17 C.F.R. §230.144A, as amended from time to time, in connection with any contemplated transfer of the Notes.

Section 7.2. Officer's Certificate. Each set of financial statements delivered to a holder of Notes pursuant to Section 7.1(a) or Section 7.1(b) hereof shall be accompanied by a certificate of a Senior Financial Officer setting forth:

(a) *Covenant Compliance*— the information required in order to establish whether the Company was in compliance with the requirements of Section 10.1 through Section 10.5 hereof, inclusive, during the quarterly or annual period covered by the statements then being furnished (including with respect to each such Section, where applicable, the calculations of the maximum or minimum amount, ratio or percentage, as the case may be, permissible under the terms of such Sections, and the calculation of the amount, ratio or percentage then in existence); and

(b) *Event of Default*— a statement that such officer has reviewed the relevant terms hereof and such review shall not have disclosed the existence during the quarterly or annual period covered by the statements then being furnished of any condition or event that constitutes a Default or an Event of Default or, if any such condition or event existed or exists, specifying the nature and period of existence thereof and what action the Company shall have taken or proposes to take with respect thereto.

Section 7.3. Visitation. The Company shall permit the representatives of each holder of Notes that is an Institutional Investor:

(a) *No Default*— if no Default or Event of Default then exists, at the expense of such holder and upon reasonable prior notice to the Company, to visit the principal executive office of the Company, to discuss the affairs, finances and accounts of the Company and its Subsidiaries with the Company's officers, and (with the consent of the Company, which consent will not be unreasonably withheld) its independent public accountants, and (with the consent of the Company, which consent will not be unreasonably withheld) to visit the other offices and properties of the Company and each Restricted Subsidiary, all at such reasonable times during normal business hours and as often as may be reasonably requested in writing; and

(b) *Default*— if a Default or Event of Default then exists, at the expense of the Company, to visit and inspect any of the offices or properties of the Company or any Restricted Subsidiary, to examine (other than information governed by a written confidentiality agreement which prohibits such access) all their respective books of account, records, reports and other papers, to make copies and extracts therefrom, and to discuss their respective affairs, finances and accounts with their respective officers and independent public accountants (and by this provision the Company authorizes said accountants to discuss the affairs, finances and accounts of the Company and its Subsidiaries), all at such times during normal business hours and as often as may be requested.

Section 8. Payment of the Notes.

Section 8.1. Required Prepayments. The entire unpaid principal amount of the Notes shall become due and payable on May 2, 2016.

Section 8.2. Optional Prepayments with Make-Whole Amount. The Company may, at its option, upon notice as provided below, prepay at any time all, or from time to time any part of the Notes, in an amount not less than 10% of the original aggregate principal amount of the Notes to be prepaid in the case of a partial prepayment, at 100% of the principal amount so prepaid, together with accrued and unpaid interest thereon to the date of such prepayment, plus the Make-Whole Amount determined for the prepayment date with respect to such principal amount of each Note then outstanding. The Company will give each holder of Notes written notice of each optional prepayment under this Section 8.2 not less than 15 days and not more than 60 days prior to the date fixed for such prepayment. Each such notice shall specify such date, the aggregate principal amount of the Notes to be prepaid on such date, the principal amount of each Note held by such holder to be prepaid (determined in accordance with Section 8.3), and the interest to be paid on the prepayment date with respect to such principal amount being prepaid, and shall be accompanied by a certificate of a Senior Financial Officer as to the estimated respective Make-Whole Amount due in connection with such prepayment (calculated as if the date of such notice were the date of the prepayment), setting forth the details of such computation. Two Business Days prior to such prepayment, the Company shall deliver to each holder of Notes to be prepaid a certificate of a Senior Financial Officer specifying the calculation of each such Make-Whole Amount as of the specified prepayment date.

Section 8.3. Allocation of Partial Prepayments. In the case of each partial prepayment of the Notes pursuant to the provisions of Section 8.2, the principal amount of the Notes shall be allocated among all of the Notes at the time outstanding in proportion, as nearly as practicable, to the respective unpaid principal amounts thereof.

Section 8.4. Rejectable Offer of Prepayment Following Certain Asset Sales. If the Company uses a portion of the net proceeds received from a sale of a "substantial part" of its assets to prepay or retire Senior Debt of the Company and/or its Restricted Subsidiaries in accordance with the terms of Section 10.4(2) hereof, the Company shall offer to prepay each outstanding Note in a principal amount that equals the Ratable Portion for such Note, and (ii) any such prepayment of the Notes shall be made at par, together with accrued interest thereon to the date of such prepayment, but without the payment of the Make-Whole Amount. Any offer of prepayment of the Notes pursuant to this Section 8.4 shall be given to each holder of the Notes by written notice delivered not less than fifteen (15) days and not more than sixty (60) days prior to the proposed prepayment date. Each such notice shall state that it is given pursuant to this Section 8.4 and that the offer set forth in such notice must be accepted by such holder in writing and shall also set forth (i) the prepayment date, (ii) a description of the circumstances which give rise to the proposed prepayment, and (iii) a calculation of the Ratable Portion for such holder's Notes. Each holder of the Notes which desires to have its Notes prepaid shall notify the Company in writing delivered not less than three (3) Business Days prior to the proposed prepayment date of its acceptance of such offer of prepayment. A failure by a holder of Notes to

respond to an offer of prepayment made pursuant to this Section 8.4 shall be deemed to constitute a rejection of such offer by such holder.

Section 8.5. Maturity; Surrender, Etc. In the case of each prepayment of Notes pursuant to this Section 8, the principal amount of each Note to be prepaid shall mature and become due and payable on the date fixed for such prepayment, together with interest on such principal amount accrued to such date and the applicable Make-Whole Amount. From and after such date, unless the Company shall fail to pay such principal amount when so due and payable, together with the interest and Make-Whole Amount as aforesaid, interest on such principal amount shall cease to accrue. Any Note paid or prepaid in full shall be surrendered to the Company and cancelled and shall not be reissued, and no Note shall be issued in lieu of any prepaid principal amount of any Note.

Section 8.6. Purchase of Notes. The Company will not and will not permit any Affiliate to purchase, redeem, prepay or otherwise acquire, directly or indirectly, any of the outstanding Notes except (a) upon the payment or prepayment of the Notes in accordance with the terms of this Agreement and the Notes or (b) pursuant to a written offer to purchase any outstanding Notes made by the Company or an Affiliate pro rata to the holders of the Notes upon the same terms and conditions. The Company will promptly cancel all Notes acquired by it or any Affiliate pursuant to any payment, prepayment or purchase of Notes pursuant to any provision of this Agreement and no Notes may be issued in substitution or exchange for any such Notes.

Section 8.7. Make-Whole Amount for the Notes. The term “*Make-Whole Amount*” means with respect to any Note an amount equal to the excess, if any, of the Discounted Value of the Remaining Scheduled Payments with respect to the Called Principal of such Note, *minus* the amount of such Called Principal, *provided* that the Make-Whole Amount may in no event be less than zero. For the purposes of determining the Make-Whole Amount, the following terms have the following meanings with respect to the Called Principal of such Note:

“*Called Principal*” means, the principal of any Note that is to be prepaid pursuant to Section 8.2 or has become or is declared to be immediately due and payable pursuant to Section 12.1, as the context requires.

“*Discounted Value*” means, the amount obtained by discounting all Remaining Scheduled Payments from their respective scheduled due dates to the Settlement Date with respect to such Called Principal, in accordance with accepted financial practice and at a discount factor (applied on the same periodic basis as that on which interest on such Note is payable) equal to the Reinvestment Yield.

“*Reinvestment Yield*” means, 0.50% plus the yield to maturity calculated by using (i) the yields reported, as of 10:00 A.M. (New York City time) on the second Business Day preceding the Settlement Date on screen “PX-1” on the Bloomberg Financial Market Service (or such other information service as may replace Bloomberg) for actively traded U.S. Treasury securities having a maturity equal to the Remaining Average Life of such Called Principal as of such Settlement Date, or (ii) if such yields are not reported as of such time or the yields reported as of such time are not ascertainable, the Treasury

Constant Maturity Series Yields reported, for the latest day for which such yields have been so reported as of the second Business Day preceding the Settlement Date, in Federal Reserve Statistical Release H.15 (519) (or any comparable successor publication) for actively traded U.S. Treasury securities having a constant maturity equal to the Remaining Average Life of such Called Principal as of such Settlement Date. In either case, the yield will be determined, if necessary, by (a) converting U.S. Treasury bill quotations to bond-equivalent yields in accordance with accepted financial practice and (b) interpolating linearly on a straight line basis between (1) the actively traded U.S. Treasury security with the maturity closest to and greater than the Remaining Average Life and (2) the actively traded U.S. Treasury security with the maturity closest to and less than the Remaining Average Life.

“*Remaining Average Life*” means, the number of years (calculated to the nearest one-twelfth year) obtained by dividing (i) such Called Principal into (ii) the sum of the products obtained by multiplying (a) the principal component of each Remaining Scheduled Payment by (b) the number of years (calculated to the nearest one-twelfth year) that will elapse between the Settlement Date and the scheduled due date of such Remaining Scheduled Payment.

“*Remaining Scheduled Payments*” means, all payments of such Called Principal and interest thereon that would be due after the Settlement Date if no payment of such Called Principal were made prior to its scheduled due date, *provided* that if such Settlement Date is not a date on which interest payments are due to be made under the terms of such Note, then the amount of the next succeeding scheduled interest payment will be reduced by the amount of interest accrued to such Settlement Date and required to be paid on such Settlement Date pursuant to Section 8.2 or 12.1.

“*Settlement Date*” means, the date on which such Called Principal is to be prepaid pursuant to Section 8.2 or has become or is declared to be immediately due and payable pursuant to Section 12.1, as the context requires.

Section 9. Affirmative Covenants.

The Company covenants that so long as any of the Notes are outstanding:

Section 9.1. Compliance with Law. Without limiting Section 10.7, the Company will, and will cause each of its Subsidiaries to, comply with all laws, ordinances or governmental rules or regulations to which each of them is subject, including, without limitation, ERISA, the USA Patriot Act and Environmental Laws, and will obtain and maintain in effect all licenses, certificates, permits, franchises and other governmental authorizations necessary to the ownership of their respective properties or to the conduct of their respective businesses, in each case to the extent necessary to ensure that non-compliance with such laws, ordinances or governmental rules or regulations or failures to obtain or maintain in effect such licenses, certificates, permits, franchises and other governmental authorizations would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 9.2. Insurance. The Company will, and will cause each of its Restricted Subsidiaries to, maintain, with financially sound and reputable insurers, insurance with respect to their respective properties and businesses against such casualties and contingencies, of such types, on such terms and in such amounts (including deductibles, co-insurance and self-insurance, if adequate reserves are maintained with respect thereto) as is customary in the case of entities of established reputations engaged in the same or a similar business and similarly situated except for any non-maintenance that would not reasonably be expected to have a Material Adverse Effect.

Section 9.3. Maintenance of Properties. The Company will, and will cause each of its Restricted Subsidiaries to, maintain and keep, or cause to be maintained and kept, their respective properties in good repair, working order and condition (other than ordinary wear and tear), so that the business carried on in connection therewith may be properly conducted at all times, *provided* that this Section shall not prevent the Company or any Restricted Subsidiary from discontinuing the operation and the maintenance of any of its properties if such discontinuance is desirable in the conduct of its business and the Company has concluded that such discontinuance would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 9.4. Payment of Taxes and Claims. The Company will, and will cause each of its Subsidiaries to, file all tax returns required to be filed in any jurisdiction and to pay and discharge all taxes shown to be due and payable on such returns and all other taxes, assessments, governmental charges, or levies imposed on them or any of their properties, assets, income or franchises, to the extent such taxes and assessments have become due and payable and before they have become delinquent and all claims for which sums have become due and payable that have or might become a Lien on properties or assets of the Company or any Subsidiary not permitted by Section 10.3, *provided* that neither the Company nor any Subsidiary need pay any such tax or assessment or claims if (i) the amount, applicability or validity thereof is contested by the Company or such Subsidiary on a timely basis in good faith and in appropriate proceedings, and the Company or a Subsidiary has established adequate reserves therefor in accordance with GAAP on the books of the Company or such Subsidiary or (ii) the non-filing or nonpayment, as the case may be, of all such taxes and assessments in the aggregate would not reasonably be expected to have a Material Adverse Effect.

Section 9.5. Corporate Existence, Etc. Subject to Sections 10.4 and 10.5, the Company will at all times preserve and keep in full force and effect its corporate existence, and will at all times preserve and keep in full force and effect the corporate existence of each of its Restricted Subsidiaries (unless merged into the Company or a Restricted Subsidiary) and all rights and franchises of the Company and its Restricted Subsidiaries unless, in the good faith judgment of the Company, the termination of or failure to preserve and keep in full force and effect such corporate existence, right or franchise would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 9.6. Designation of Subsidiaries. The Company may from time to time cause any Subsidiary (other than a Subsidiary Guarantor) to be designated as an Unrestricted Subsidiary or any Unrestricted Subsidiary to be designated a Restricted Subsidiary; *provided*,

however, that at the time of such designation and immediately after giving effect thereto, (a) no Default or Event of Default exists or would exist under the terms of this Agreement, (b) the Company and its Restricted Subsidiaries would be in compliance with all of the covenants set forth in this Section 9 and Section 10 if tested on the date of such action and (c) in the case of a Restricted Subsidiary being designated as an Unrestricted Subsidiary, such Restricted Subsidiary does not own, directly or indirectly, any Debt or capital stock of the Company or any other Restricted Subsidiary and *provided, further*, that once a Subsidiary has been designated an Unrestricted Subsidiary, it shall not thereafter be redesignated as a Restricted Subsidiary on more than one occasion and once a Subsidiary has been designated a Restricted Subsidiary, it shall not thereafter be redesignated as an Unrestricted Subsidiary on more than one occasion and *provided, further*, the designation of a Restricted Subsidiary as an Unrestricted Subsidiary will be considered as a sale of such Subsidiary for purposes of Section 10.4. Within ten (10) days following any designation described above, the Company will deliver to you a notice of such designation accompanied by a certificate signed by a Senior Financial Officer of the Company certifying compliance with all requirements of this Section 9.6 and setting forth all information required in order to establish such compliance.

Section 9.7. Notes to Rank Pari Passu. The Notes and all other obligations of the Company under this Agreement are and at all times shall remain direct and unsecured obligations of the Company ranking *pari passu* as against the assets of the Company with all other Notes from time to time issued and outstanding hereunder without any preference among themselves and *pari passu* with all other present and future unsecured Debt (actual or contingent) of the Company which is not expressed to be subordinate or junior in rank to any other unsecured Debt of the Company.

Section 9.8. Additional Subsidiary Guarantors. The Company will cause any Subsidiary which is required by the terms of the Bank Credit Agreement (which requirement has not been waived by the lenders thereunder) to become a party to, or otherwise guarantee, Debt in respect of the Bank Credit Agreement, to enter into the Subsidiary Guaranty and deliver to each of the holders of the Notes (concurrently with the incurrence of any such obligation pursuant to the Bank Credit Agreement) the following items:

(a) a joinder agreement in respect of the Subsidiary Guaranty;

(b) a certificate signed by an authorized Responsible Officer of the Company making representations and warranties to the effect of those contained in Sections 5.4, 5.6 and 5.7, with respect to such Subsidiary and the Subsidiary Guaranty, as applicable; and

(c) an opinion of counsel (who may be in-house counsel for the Company) addressed to each of the holders of the Notes satisfactory to the Required Holders, to the effect that the Subsidiary Guaranty by such Person has been duly authorized, executed and delivered and that the Subsidiary Guaranty constitutes the legal, valid and binding contract and agreement of such Person enforceable in accordance with its terms, except as an enforcement of such terms may be limited by bankruptcy, insolvency, fraudulent conveyance and similar laws affecting the enforcement of creditors' rights generally and by general equitable principles.

Section 9.9. Books and Records. The Company will, and will cause each of its Restricted Subsidiaries to, maintain proper books of record and account in conformity with GAAP and all applicable requirements of any Governmental Authority having legal or regulatory jurisdiction over the Company or such Restricted Subsidiary, as the case may be.

Section 10. Negative Covenants.

The Company covenants that so long as any of the Notes are outstanding:

Section 10.1. Consolidated Debt to Consolidated EBITDA. The Company will not permit the ratio of Consolidated Debt to Consolidated EBITDA (Consolidated EBITDA to be calculated as at the end of each fiscal quarter for the four consecutive fiscal quarters then ended) to exceed 3.5 to 1.00; *provided, however,* that the ratio of Consolidated Debt to Consolidated EBITDA may exceed 3.5 to 1.00 at any time during the Transition Period if such ratio of Consolidated Debt to Consolidated EBITDA exceeded 3.5 to 1.00 as a direct result of the Company or any Restricted Subsidiary creating, assuming, incurring, guaranteeing or otherwise becoming liable in respect of Acquisition Debt so long as the ratio of Consolidated Debt to Consolidated EBITDA at all times during the Transition Period shall not exceed 4.0 to 1.00.

Section 10.2. Priority Debt. The Company will not at any time permit the aggregate amount of all Priority Debt to exceed 20% of Consolidated Net Worth (Consolidated Net Worth to be determined as of the end of the then most recently ended fiscal quarter of the Company).

Section 10.3. Limitation on Liens. The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly create, incur, assume or permit to exist (upon the happening of a contingency or otherwise) any Lien on or with respect to any property or asset (including, without limitation, any document or instrument in respect of goods or accounts receivable) of the Company or any such Restricted Subsidiary, whether now owned or held or hereafter acquired, or any income or profits therefrom, or assign or otherwise convey any right to receive income or profits (unless it makes, or causes to be made, effective provision whereby the Notes will be equally and ratably secured with any and all other obligations thereby secured, such security to be pursuant to an agreement reasonably satisfactory to the Required Holders and, in any such case, the Notes shall have the benefit, to the fullest extent that, and with such priority as, the holders of the Notes may be entitled under applicable law, of an equitable Lien on such property), except:

- (a) Liens for taxes, assessments or other governmental charges that are not yet due and payable or the payment of which is not at the time required by Section 9.4;
- (b) any attachment or judgment Lien, unless the judgment it secures shall not, within 60 days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall not have been discharged within 60 days after the expiration of any such stay;
- (c) Liens incidental to the conduct of business or the ownership of properties and assets (including landlords', carriers', warehousemen's, mechanics', materialmen's

and other similar Liens for sums not yet due and payable) and Liens to secure the performance of bids, tenders, leases, or trade contracts, or to secure statutory obligations (including obligations under workers compensation, unemployment insurance and other social security legislation), surety or appeal bonds or other Liens incurred in the ordinary course of business and not in connection with the borrowing of money;

(d) leases or subleases granted to others, easements, rights-of-way, restrictions and other similar charges or encumbrances, in each case incidental to the ownership of property or assets or the ordinary conduct of the business of the Company or any of its Restricted Subsidiaries, or Liens incidental to minor survey exceptions and the like, *provided* that such Liens do not, in the aggregate, materially detract from the value of such property;

(e) Liens securing Debt of a Restricted Subsidiary to the Company or to a Restricted Subsidiary;

(f) Liens existing as of the date of Closing and reflected in Schedule 10.3;

(g) Liens incurred after the date of Closing given to secure the payment of the purchase price incurred in connection with the acquisition, construction or improvement of property (other than accounts receivable or inventory) useful and intended to be used in carrying on the business of the Company or a Restricted Subsidiary, including Liens existing on such property at the time of acquisition or construction thereof or Liens incurred within 365 days of such acquisition or completion of such construction or improvement, *provided* that (i) the Lien shall attach solely to the property acquired, purchased, constructed or improved; (ii) at the time of acquisition, construction or improvement of such property (or, in the case of any Lien incurred within three hundred sixty-five (365) days of such acquisition or completion of such construction or improvement, at the time of the incurrence of the Debt secured by such Lien), the aggregate amount remaining unpaid on all Debt secured by Liens on such property, whether or not assumed by the Company or a Restricted Subsidiary, shall not exceed the lesser of (y) the cost of such acquisition, construction or improvement or (z) the Fair Market Value of such property (as determined in good faith by one or more officers of the Company); and (iii) at the time of such incurrence and after giving effect thereto, no Default or Event of Default would exist;

(h) any Lien existing on property of a Person immediately prior to its being consolidated with or merged into the Company or a Restricted Subsidiary or its becoming a Restricted Subsidiary, or any Lien existing on any property acquired by the Company or any Restricted Subsidiary at the time such property is so acquired (whether or not the Debt secured thereby shall have been assumed), *provided* that (i) no such Lien shall have been created or assumed in contemplation of such consolidation or merger or such Person's becoming a Restricted Subsidiary or such acquisition of property, (ii) each such Lien shall extend solely to the item or items of property so acquired and, if required by the terms of the instrument originally creating such Lien, other property which is an improvement to or is acquired for specific use in connection with such acquired property,

and (iii) at the time of such incurrence and after giving effect thereto, no Default or Event of Default would exist;

(i) any extensions, renewals or replacements of any Lien permitted by the preceding subparagraphs (f), (g) and (h) of this Section 10.3, *provided that* (i) no additional property shall be encumbered by such Liens, (ii) the unpaid principal amount of the Debt or other obligations secured thereby shall not be increased on or after the date of any extension, renewal or replacement, and (iii) at such time and immediately after giving effect thereto, no Default or Event of Default shall have occurred and be continuing;

(j) Liens on accounts receivable of the Company and its Restricted Subsidiaries to the extent such Liens arise solely by reason of a Permitted Securitization Transaction; *provided that* no such Lien shall extend to or cover any property of the Company or any Restricted Subsidiary other than such accounts receivable subject to such Permitted Securitization Transaction; and

(k) Liens securing Priority Debt of the Company or any Restricted Subsidiary, *provided that* the aggregate principal amount of any such Priority Debt shall be permitted by Section 10.2.

Section 10.4. Sales of Assets. The Company will not, and will not permit any Restricted Subsidiary to, sell, lease or otherwise dispose of any substantial part (as defined below) of the assets of the Company and its Restricted Subsidiaries; *provided, however,* that the Company or any Restricted Subsidiary may sell, lease or otherwise dispose of assets constituting a substantial part of the assets of the Company and its Restricted Subsidiaries if such assets are sold in an arms length transaction and, at such time and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing and an amount equal to the net proceeds received from such sale, lease or other disposition (but only with respect to that portion of such assets that exceeds the definition of “substantial part” set forth below) shall be used within 365 days of such sale, lease or disposition, in any combination:

(1) to acquire productive assets used or useful in carrying on the business of the Company and its Restricted Subsidiaries and having a value at least equal to the value of such assets sold, leased or otherwise disposed of; and/or

(2) to prepay or retire Senior Debt of the Company and/or its Restricted Subsidiaries, *provided that* the Company shall offer to prepay a portion of the Notes on a pro rata basis in accordance with Section 8.4 hereof.

As used in this Section 10.4, a sale, lease or other disposition of assets shall be deemed to be a “substantial part” of the assets of the Company and its Restricted Subsidiaries if the book value of such assets, when added to the book value of all other assets sold, leased or otherwise disposed of by the Company and its Restricted Subsidiaries during the period of 12 consecutive months ending on the date of such sale, lease or other disposition, exceeds 10% of the book value of Consolidated Total Assets, determined as of the end of the fiscal quarter immediately

preceding such sale, lease or other disposition; *provided* that there shall be excluded from any determination of a “substantial part” any (i) sale or disposition of assets in the ordinary course of business of the Company and its Restricted Subsidiaries, (ii) any transfer of assets from the Company to any Restricted Subsidiary or from any Restricted Subsidiary to the Company or a Restricted Subsidiary and (iii) any sale or transfer of property acquired by the Company or any Restricted Subsidiary after the date of this Agreement to any Person within 365 days following the acquisition or construction of such property by the Company or any Restricted Subsidiary if the Company or a Restricted Subsidiary shall concurrently with such sale or transfer, lease such property, as lessee. For purposes of clarification, the sale by the Company or any Restricted Subsidiary of accounts receivable to any Person (other than the Company or any Restricted Subsidiary) pursuant to a Permitted Securitization Transaction shall be included in the determination of a “substantial part.”

Section 10.5. Merger and Consolidation. The Company will not, and will not permit any of its Restricted Subsidiaries to, consolidate with or merge with any other Person or convey, transfer or lease substantially all of its assets in a single transaction or series of transactions to any Person; *provided* that:

(1) any Restricted Subsidiary of the Company may (x) consolidate with or merge with, or convey, transfer or lease substantially all of its assets in a single transaction or series of transactions to, (i) the Company or a Restricted Subsidiary so long as in any merger or consolidation involving the Company, the Company shall be the surviving or continuing corporation or (ii) any other Person so long as the survivor is the Restricted Subsidiary, or (y) convey, transfer or lease all of its assets in compliance with the provisions of Section 10.4; and

(2) the foregoing restriction does not apply to the consolidation or merger of the Company with, or the conveyance, transfer or lease of substantially all of the assets of the Company in a single transaction or series of transactions to, any Person so long as:

(a) the successor formed by such consolidation or the survivor of such merger or the Person that acquires by conveyance, transfer or lease substantially all of the assets of the Company as an entirety, as the case may be (the “*Successor Corporation*”), shall be a solvent entity organized and existing under the laws of the United States of America, any State thereof or the District of Columbia;

(b) if the Company is not the Successor Corporation, such Successor Corporation shall have executed and delivered to each holder of Notes its assumption of the due and punctual performance and observance of each covenant and condition of this Agreement and the Notes (pursuant to an assumption agreement substantially in the form attached hereto as Exhibit 10.5), and the Successor Corporation shall have caused to be delivered to each holder of Notes (A) an opinion of nationally recognized independent counsel, to the effect that all agreements or instruments effecting such assumption are enforceable in accordance with their terms and (B) an acknowledgment from each Subsidiary Guarantor that the Subsidiary Guaranty continues in full force and effect; and

(c) immediately after giving effect to such transaction no Default or Event of Default would exist.

Section 10.6. Transactions with Affiliates. The Company will not and will not permit any Restricted Subsidiary to enter into directly or indirectly any Material transaction or Material group of related transactions (including without limitation the purchase, lease, sale or exchange of properties of any kind or the rendering of any service) with any Affiliate (other than the Company or a Restricted Subsidiary), except in the ordinary course and upon fair and reasonable terms that are not materially less favorable to the Company or such Restricted Subsidiary, taken as a whole, than would be obtainable in a comparable arm's-length transaction with a Person not an Affiliate.

Section 10.7. Terrorism Sanctions Regulations. The Company will not and will not permit any Subsidiary to (a) become a Person described or designated in the Specially Designated Nationals and Blocked Persons List of the Office of Foreign Assets Control or in Section 1 of the Anti-Terrorism Order or (b) knowingly engage in any dealings or transactions with any such Person.

Section 10.8. Line of Business. The Company will not and will not permit any Restricted Subsidiary to engage in any business if, as a result, the general nature of the business in which the Company and its Restricted Subsidiaries, taken as a whole, would then be engaged would be substantially changed from the general nature of the business in which the Company and its Restricted Subsidiaries, taken as a whole, are engaged on the date of this Agreement.

Section 11. Events of Default.

An "Event of Default" shall exist if any of the following conditions or events shall occur and be continuing:

(a) the Company defaults in the payment of any principal or Make-Whole Amount, if any, on any Note when the same becomes due and payable, whether at maturity or at a date fixed for prepayment or by declaration or otherwise; or

(b) the Company defaults in the payment of any interest on any Note for more than five Business Days after the same becomes due and payable; or

(c) the Company defaults in the performance of or compliance with any term contained in Section 10 or any Subsidiary Guarantor defaults in the performance of or compliance with any term of the Subsidiary Guaranty in each case beyond any period of grace or cure period provided with respect thereto; or

(d) the Company defaults in the performance of or compliance with any term contained herein (other than those referred to in paragraphs (a), (b) and (c) of this Section 11) and such default is not remedied within 30 days after the earlier of (i) a Responsible Officer obtaining actual knowledge of such default or (ii) the Company receiving written notice of such default from any holder of a Note (any such written

notice to be identified as a “notice of default” and to refer specifically to this paragraph (d) of Section 11); or

(e) any Subsidiary Guaranty ceases to be a legally valid, binding and enforceable obligation or contract of a Subsidiary Guarantor (other than upon a release of any Subsidiary Guarantor from a Subsidiary Guaranty in accordance with the terms of Section 2.2(b) hereof), or any Subsidiary Guarantor or any party by, through or on account of any such Person, challenges the validity, binding nature or enforceability of any such Subsidiary Guaranty; or

(f) any representation or warranty made in writing by or on behalf of the Company or any Subsidiary Guarantor in this Agreement or any Subsidiary Guaranty or by any officer of the Company or any Subsidiary Guarantor in any writing furnished in connection with the transactions contemplated hereby or by any Subsidiary Guaranty proves to have been false or incorrect in any material respect on the date as of which made; or

(g) (i) the Company or any Restricted Subsidiary is in default (as principal or as guarantor or other surety) in the payment of any principal of or premium or make-whole amount or interest (in the payment amount of at least \$100,000) on any Debt other than the Notes that is outstanding in an aggregate principal amount of at least \$15,000,000 beyond any period of grace provided with respect thereto, or (ii) the Company or any Restricted Subsidiary is in default in the performance of or compliance with any term of any instrument, mortgage, indenture or other agreement relating to any Debt other than the Notes in an aggregate principal amount of at least \$15,000,000 or any other condition exists, and as a consequence of such default or condition such Debt has become, or has been declared, due and payable, or (iii) as a consequence of the occurrence or continuation of any event or condition (other than the passage of time or the right of the holder of Debt to convert such Debt into equity interests), the Company or any Restricted Subsidiary has become obligated to purchase or repay Debt other than the Notes before its regular maturity or before its regularly scheduled dates of payment in an aggregate outstanding principal amount of at least \$15,000,000; *provided* that no Default or Event of Default shall exist under this Section 11(g) if any Target Company defaults in the payment of Due On Sale Debt on the date such Target Company is acquired by the Company or any Restricted Subsidiary if such Due On Sale Debt is repaid in full within 1 Business Day of the date such Target Company is acquired by the Company or any Restricted Subsidiary; or

(h) the Company, any Material Subsidiary or any Subsidiary Guarantor (i) is generally not paying, or admits in writing its inability to pay, its debts as they become due, (ii) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy, for liquidation or to take advantage of any bankruptcy, insolvency, reorganization, moratorium or other similar law of any jurisdiction, (iii) makes an assignment for the benefit of its creditors, (iv) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property,

(v) is adjudicated as insolvent or to be liquidated, or (vi) takes corporate action for the purpose of any of the foregoing; or

(i) a court or governmental authority of competent jurisdiction enters an order appointing, without consent by the Company, any of its Material Subsidiaries or any Subsidiary Guarantor, a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, or constituting an order for relief or approving a petition for relief or reorganization or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction, or ordering the dissolution, winding-up or liquidation of the Company, any of its Material Subsidiaries or any Subsidiary Guarantor, or any such petition shall be filed against the Company, any of its Material Subsidiaries or any Subsidiary Guarantor and such petition shall not be dismissed within 60 days; or

(j) a final judgment or judgments at any one time outstanding for the payment of money aggregating in excess of \$15,000,000 are rendered against one or more of the Company, its Restricted Subsidiaries or any Subsidiary Guarantor and which judgments are not, within 60 days after entry thereof, bonded, discharged or stayed pending appeal, or are not discharged within 60 days after the expiration of such stay; or

(k) if (i) any Plan shall fail to satisfy the minimum funding standards of ERISA or the Code for any plan year or part thereof or a waiver of such standards or extension of any amortization period is sought or granted under Section 412 of the Code, (ii) a notice of intent to terminate any Plan in an involuntary or distress termination shall have been filed with the PBGC or the PBGC shall have instituted proceedings under Section 4042 of ERISA to terminate or appoint a trustee to administer any Plan or the PBGC shall have notified the Company or any ERISA Affiliate that a Plan may become a subject of any such proceedings, (iii) the aggregate "amount of unfunded benefit liabilities" (within the meaning of Section 4001(a)(18) of ERISA) under all Plans, determined in accordance with Title IV of ERISA, shall exceed \$15,000,000, (iv) the Company or in the case of any ERISA controlled group liability, any ERISA Affiliate, shall have incurred any liability pursuant to Title I or IV of ERISA or the penalty or excise tax provisions of the Code relating to employee benefit plans, (v) the Company or any ERISA Affiliate withdraws from any Multiemployer Plan, or (vi) the Company or any Subsidiary establishes or amends any employee welfare benefit plan that provides post-employment welfare benefits in a manner that could increase the liability of the Company or any Subsidiary thereunder; and any such event or events described in clauses (i) through (vi) above, either individually or together with any other such event or events, could reasonably be expected to have a Material Adverse Effect.

As used in Section 11(k), the terms "*employee benefit plan*" and "*employee welfare benefit plan*" shall have the respective meanings assigned to such terms in Section 3 of ERISA.

Section 12. Remedies on Default, Etc.

Section 12.1. Acceleration. (a) If an Event of Default with respect to the Company described in paragraph (h) or (i) of Section 11 (other than an Event of Default described in clause (i) of paragraph (h) or described in clause (vi) of paragraph (h) by virtue of the fact that such clause encompasses clause (i) of paragraph (h)) has occurred, all the Notes then outstanding shall automatically become immediately due and payable.

(b) If any other Event of Default has occurred and is continuing, any holder or holders of more than 50% in aggregate principal amount of the Notes at the time outstanding may at any time at its or their option, by notice or notices to the Company, declare all the Notes then outstanding to be immediately due and payable.

(c) If any Event of Default described in paragraph (a) or (b) of Section 11 has occurred and is continuing with respect to any Notes, any holder or holders of Notes at the time outstanding affected by such Event of Default may at any time, at its or their option, by notice or notices to the Company, declare all the Notes held by such holder or holders to be immediately due and payable.

Upon any Note's becoming due and payable under this Section 12.1, whether automatically or by declaration, such Note will forthwith mature and the entire unpaid principal amount of such Note, plus (i) all accrued and unpaid interest thereon (including, but not limited to, interest accrued thereon at the Default Rate) and (ii) the Make-Whole Amount determined in respect of such principal amount (to the full extent permitted by applicable law), shall all be immediately due and payable, in each and every case without presentment, demand, protest or further notice, all of which are hereby waived. The Company acknowledges, and the parties hereto agree, that each holder of a Note has the right to maintain its investment in the Notes free from repayment by the Company (except as herein specifically provided for) and that the provision for payment of a Make-Whole Amount by the Company in the event that the Notes are prepaid or are accelerated as a result of an Event of Default, is intended to provide compensation for the deprivation of such right under such circumstances.

Section 12.2. Other Remedies. If any Default or Event of Default has occurred and is continuing, and irrespective of whether any Notes have become or have been declared immediately due and payable under Section 12.1, the holder of any Note at the time outstanding may proceed to protect and enforce the rights of such holder by an action at law, suit in equity or other appropriate proceeding, whether for the specific performance of any agreement contained herein or in any Note, or for an injunction against a violation of any of the terms hereof or thereof, or in aid of the exercise of any power granted hereby or thereby or by law or otherwise.

Section 12.3. Rescission. At any time after the Notes have been declared due and payable pursuant to clause (b) or (c) of Section 12.1, the holders of more than 50% in aggregate principal amount of the Notes then outstanding, by written notice to the Company, may rescind and annul any such declaration and its consequences if (a) the Company has paid all overdue interest on the Notes, all principal of and Make-Whole Amount on any Notes that are due and payable and are unpaid other than by reason of such declaration, and all interest on such overdue principal and

Make-Whole Amount and (to the extent permitted by applicable law) any overdue interest in respect of the Notes, at the Default Rate, (b) neither the Company nor any other Person shall have paid any amounts which have become due solely by reason of such declaration, (c) all Events of Default and Defaults, other than non-payment of amounts that have become due solely by reason of such declaration, have been cured or have been waived pursuant to Section 17, and (d) no judgment or decree has been entered for the payment of any monies due pursuant hereto or to any Notes. No rescission and annulment under this Section 12.3 will extend to or affect any subsequent Event of Default or Default or impair any right consequent thereon.

Section 12.4. No Waivers or Election of Remedies, Expenses, Etc. No course of dealing and no delay on the part of any holder of any Note in exercising any right, power or remedy shall operate as a waiver thereof or otherwise prejudice such holder's rights, powers or remedies. No right, power or remedy conferred by this Agreement or by any Note upon any holder thereof shall be exclusive of any other right, power or remedy referred to herein or therein or now or hereafter available at law, in equity, by statute or otherwise. Without limiting the obligations of the Company under Section 15, the Company will pay to the holder of each Note on demand such further amount as shall be sufficient to cover all costs and expenses of such holder incurred in any enforcement or collection under this Section 12, including, without limitation, reasonable attorneys' fees, expenses and disbursements.

Section 13. Registration; Exchange; Substitution of Notes.

Section 13.1. Registration of Notes. The Company shall keep at its principal executive office a register for the registration and registration of transfers of Notes. The name and address of each holder of one or more Notes, each transfer thereof and the name and address of each transferee of one or more Notes shall be registered in such register. Prior to due presentment for registration of transfer, the Person in whose name any Note shall be registered shall be deemed and treated as the owner and holder thereof for all purposes hereof, and the Company shall not be affected by any notice or knowledge to the contrary. The Company shall give to any holder of a Note that is an Institutional Investor promptly upon request therefor, a complete and correct copy of the names and addresses of all registered holders of Notes.

Section 13.2. Transfer and Exchange of Notes. Subject to the limitation in Section 13.3, upon surrender of any Note to the Company at the address and to the attention of the designated officer (all as specified in Section 18(iii)), for registration of transfer or exchange (and in the case of a surrender for registration of transfer accompanied by a written instrument of transfer duly executed by the registered holder of such Note or such holder's attorney duly authorized in writing and accompanied by the relevant name, address and other information for notices of each transferee of such Note or part thereof), within ten Business Days thereafter, the Company shall execute and deliver, at the Company's expense (except as provided below), one or more new Notes (as requested by the holder thereof) in exchange therefor, in an aggregate principal amount equal to the unpaid principal amount of the surrendered Note. Each such new Note shall be payable to such Person as such holder may request and shall be substantially in the form of the Note originally issued hereunder. Each such new Note shall be dated and bear interest from the date to which interest shall have been paid on the surrendered Note or dated the date of the surrendered Note if no interest shall have been paid thereon. The Company may require

payment of a sum sufficient to cover any stamp tax or governmental charge imposed in respect of any such transfer of Notes. Notes shall not be transferred in denominations of less than \$500,000, *provided* that if necessary to enable the registration of transfer by a holder of its entire holding of Notes, one Note may be in a denomination of less than \$500,000. Any transferee, by its acceptance of a Note registered in its name (or the name of its nominee), shall be deemed to have (i) agreed to the confidentiality provisions set forth in Section 20 hereof, (ii) made the representation set forth in Sections 6.2 and 6.3, *provided*, that in lieu thereof such holder may (in reliance upon information provided by the Company, which shall not be unreasonably withheld) make a representation to the effect that the purchase by any holder of any Note will not constitute a non-exempt prohibited transaction under section 406(a) of ERISA and (iii) submitted to jurisdiction and service of process as provided in Section 22.8 hereof.

The Notes have not been registered under the Securities Act or under the securities laws of any state and the holders agree that the Notes may not be transferred or resold unless registered under the Securities Act and all applicable state securities laws or unless an exemption from the requirement for such registration is available.

Section 13.3. Transfer Restrictions. Each Purchaser agrees that so long as no Default or Event of Default exists, without the prior written consent of the Company, such Purchaser (and each transferee by its acceptance of a Note shall be deemed to have agreed that it) will not knowingly transfer or assign the Notes to any Person which is, or is known by such Purchaser to be controlled by, a Person who has a line of business that involves consumer packaged food products or personal care products with sales equal to or greater than \$25,000,000 during the 12 months prior to such transfer or assignment.

Section 13.4. Replacement of Notes. Upon receipt by the Company at the address and to the attention of the designated officer (all as specified in Section 18(iii)) of evidence reasonably satisfactory to it of the ownership of and the loss, theft, destruction or mutilation of any Note (which evidence shall be, in the case of an Institutional Investor, notice from such Institutional Investor of such ownership and such loss, theft, destruction or mutilation), and

(a) in the case of loss, theft or destruction, of indemnity reasonably satisfactory to it (*provided* that if the holder of such Note is, or is a nominee for, an original Purchaser or another holder of a Note with a minimum net worth of at least \$50,000,000 or a Qualified Institutional Buyer, such Person's own unsecured agreement of indemnity shall be deemed to be satisfactory), or

(b) in the case of mutilation, upon surrender and cancellation thereof,

the Company at its own expense shall execute and deliver not more than five Business Days following satisfaction of such conditions, in lieu thereof, a new Note, dated and bearing interest from the date to which interest shall have been paid on such lost, stolen, destroyed or mutilated Note or dated the date of such lost, stolen, destroyed or mutilated Note if no interest shall have been paid thereon.

Section 14. Payments on Notes.

Section 14.1. Place of Payment. Subject to Section 14.2, payments of principal, Make-Whole Amount and interest becoming due and payable on the Notes shall be made in New York, New York at the principal office of Bank of America, N.A. in such jurisdiction. The Company may at any time, by notice to each holder of a Note, change the place of payment of the Notes so long as such place of payment shall be either the principal office of the Company in such jurisdiction or the principal office of a bank or trust company in such jurisdiction.

Section 14.2. Home Office Payment. So long as any Purchaser or such Purchaser's nominee shall be the holder of any Note, and notwithstanding anything contained in Section 14.1 or in such Note to the contrary, the Company will pay all sums becoming due on such Note for principal, Make-Whole Amount and interest by the method and at the address specified for such purpose for such Purchaser on Schedule A hereto, or by such other method or at such other address as such Purchaser shall have from time to time specified to the Company in writing for such purpose, without the presentation or surrender of such Note or the making of any notation thereon, except that upon written request of the Company made concurrently with or reasonably promptly after payment or prepayment in full of any Note, such Purchaser shall surrender such Note for cancellation, reasonably promptly after any such request, to the Company at its principal executive office or at the place of payment most recently designated by the Company pursuant to Section 14.1. Prior to any sale or other disposition of any Note held by any Purchaser or such Purchaser's nominee, such Person will, at its election, either endorse thereon the amount of principal paid thereon and the last date to which interest has been paid thereon or surrender such Note to the Company in exchange for a new Note or Notes pursuant to Section 13.2. The Company will afford the benefits of this Section 14.2 to any Institutional Investor that is the direct or indirect transferee of any Note.

Section 15. Expenses, Etc.

Section 15.1. Transaction Expenses. Whether or not the transactions contemplated hereby are consummated, the Company will pay all reasonable costs and expenses (including reasonable attorneys' fees of a special counsel for the Purchasers and, if reasonably required by the Required Holders, local or other counsel) incurred by each Purchaser and each other holder of a Note in connection with such transactions and in connection with any amendments, waivers or consents under or in respect of this Agreement or the Notes (whether or not such amendment, waiver or consent becomes effective), including, without limitation the reasonable: (a) costs and expenses incurred in enforcing or defending (or determining whether or how to enforce or defend) any rights under this Agreement or the Notes or in responding to any subpoena or other legal process or informal investigative demand issued in connection with this Agreement or the Notes, or by reason of being a holder of any Note, and (b) costs and expenses, including financial advisors' fees, incurred in connection with the insolvency or bankruptcy of the Company or any Subsidiary or in connection with any work-out or restructuring of the transactions contemplated hereby and by the Notes. The Company will pay, and will save each Purchaser and each other holder of a Note harmless from, all claims in respect of any fees, costs or expenses if any, of brokers and finders (other than those, if any, retained by a Purchaser or other holder in connection with its purchase of the Notes).

Section 15.2. Survival. The obligations of the Company under this Section 15 will survive the payment or transfer of any Note, the enforcement, amendment or waiver of any provision of this Agreement or the Notes, and the termination of this Agreement.

Section 16. Survival of Representations and Warranties; Entire Agreement.

All representations and warranties contained herein shall survive the execution and delivery of this Agreement and the Notes, the purchase or transfer by any Purchaser of any such Note or portion thereof or interest therein and the payment of any Note may be relied upon by any subsequent holder of any such Note, regardless of any investigation made at any time by or on behalf of any Purchaser or any other holder of any such Note. All statements contained in any certificate or other instrument delivered by or on behalf of the Company pursuant to this Agreement shall be deemed representations and warranties of the Company under this Agreement. Subject to the preceding sentence, this Agreement and the Notes embody the entire agreement and understanding between the Purchasers and the Company and supersede all prior agreements and understandings relating to the subject matter hereof.

Section 17. Amendment and Waiver.

Section 17.1. Requirements. (a) This Agreement and the Notes may be amended, and the observance of any term hereof or of the Notes may be waived (either retroactively or prospectively), with (and only with) the written consent of the Company and the Required Holders, except that (i) no amendment or waiver of any of the provisions of Section 1, 2, 3, 4, 5, 6 or 21 hereof, or any defined term (as it is used in any such Section), will be effective as to any holder of Notes unless consented to by such holder of Notes in writing, and (ii) no such amendment or waiver may, without the written consent of all of the holders of Notes at the time outstanding affected thereby, (A) subject to the provisions of Section 12 relating to acceleration or rescission, change the amount or time of any prepayment or payment of principal of, or reduce the rate or change the time of payment or method of computation of interest (if such change results in a decrease in the interest rate) or of the Make-Whole Amount on, the Notes, (B) change the percentage of the principal amount of the Notes the holders of which are required to consent to any such amendment or waiver, or (C) amend any of Section 8, 11(a), 11(b), 12, 17 or 20.

Section 17.2. Solicitation of Holders of Notes.

(a) *Solicitation.* The Company will provide each holder of the Notes (irrespective of the amount of Notes then owned by it) with sufficient information to enable such holder to make an informed and considered decision with respect to any proposed amendment, waiver or consent in respect of any of the provisions hereof or of the Notes. The Company will deliver executed or true and correct copies of each amendment, waiver or consent effected pursuant to the provisions of this Section 17 to each holder of outstanding Notes promptly following the date on which it is executed and delivered by, or receives the consent or approval of, the requisite holders of Notes.

(b) *Payment.* The Company will not directly or indirectly pay or cause to be paid any remuneration, whether by way of supplemental or additional interest, fee or otherwise, or grant any security or provide other credit support, to any holder of Notes as consideration for or as an

inducement to the entering into by any holder of Notes of any waiver or amendment of any of the terms and provisions hereof unless such remuneration is concurrently paid, or security is concurrently granted or other credit support is concurrently provided, on the same terms, ratably to each holder of Notes then outstanding even if such holder did not consent to such waiver or amendment.

(c) *Consent in Contemplation of Transfer.* Any consent made pursuant to this Section 17 by a holder of Notes that has transferred or has agreed to transfer its Notes to the Company, any Subsidiary or any Affiliate of the Company and has provided or has agreed to provide such written consent as a condition to such transfer shall be void and of no force or effect except solely as to such holder, and any amendments effected or waivers granted or to be effected or granted that would not have been or would not be so effected or granted but for such consent (and the consents of all other holders of Notes that were acquired under the same or similar conditions) shall be void and of no force or effect except solely as to such holder.

Section 17.3. Binding Effect, Etc. Any amendment or waiver consented to as provided in this Section 17 applies equally to all holders of Notes and is binding upon them and upon each future holder of any Note and upon the Company without regard to whether such Note has been marked to indicate such amendment or waiver. No such amendment or waiver will extend to or affect any obligation, covenant, agreement, Default or Event of Default not expressly amended or waived or impair any right consequent thereon. No course of dealing between the Company and the holder of any Note nor any delay in exercising any rights hereunder or under any Note shall operate as a waiver of any rights of any holder of such Note. As used herein, the term "this Agreement" and references thereto shall mean this Agreement as it may from time to time be amended or supplemented.

Section 17.4. Notes Held by Company, Etc. Solely for the purpose of determining whether the holders of the requisite percentage of the aggregate principal amount of Notes then outstanding approved or consented to any amendment, waiver or consent to be given under this Agreement or the Notes, or have directed the taking of any action provided herein or in the Notes to be taken upon the direction of the holders of a specified percentage of the aggregate principal amount of Notes then outstanding, Notes directly or indirectly owned by the Company or any of its Affiliates shall be deemed not to be outstanding.

Section 18. Notices.

All notices and communications provided for hereunder shall be in writing and shall be effective (a) when delivered, (b) when transmitted by telecopy (or other facsimile device) if the sender on the same day sends a confirming copy of such notice by a recognized overnight delivery service (charges prepaid), (c) the day following the day on which the same has been delivered to a recognized overnight delivery service (with charges prepaid) or (d) the third Business Day following the day on which the same is sent by certified mail or registered mail (with charges prepaid). Any such notice must be sent:

- (i) if to a Purchaser or such Purchaser's nominee, to such Purchaser or such Purchaser's nominee at the address specified for such communications in Schedule A to

this Agreement, or at such other address as such Purchaser or such Purchaser's nominee shall have specified to the Company in writing pursuant to this Section 18;

(ii) if to any other holder of any Note, to such holder at such address as such other holder shall have specified to the Company in writing pursuant to this Section 18, or

(iii) if to the Company, to the Company at its address set forth at the beginning hereof to the attention of the Chief Financial Officer, with a copy to the General Counsel and a copy (which shall not constitute notice) to Cahill Gordon & Reindel LLP, 80 Pine St., New York, New York 10005, Attn: Geoffrey E. Liebmann (facsimile: 212-269-5420), or at such other address as the Company shall have specified to the holder of each Note in writing.

Section 19. Reproduction of Documents.

This Agreement and all documents relating thereto, including, without limitation, (a) consents, waivers and modifications that may hereafter be executed, (b) documents received by any Purchaser at the Closing (except the Notes themselves), and (c) financial statements, certificates and other information previously or hereafter furnished to any Purchaser, may be reproduced by such Purchaser by any photographic, photostatic, electronic, digital, or other similar process and such Purchaser may destroy any original document so reproduced. The Company agrees and stipulates that, to the extent permitted by applicable law, any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made by such Purchaser in the regular course of business) and any enlargement, facsimile or further reproduction of such reproduction shall likewise be admissible in evidence. This Section 19 shall not prohibit the Company or any other holder of Notes from contesting any such reproduction to the same extent that it could contest the original, or from introducing evidence to demonstrate the inaccuracy of any such reproduction.

Section 20. Confidential Information.

For the purposes of this Section 20, "*Confidential Information*" means information delivered to any Purchaser by or on behalf of the Company or any Subsidiary in connection with the transactions contemplated by or otherwise pursuant to this Agreement that is proprietary in nature and that was clearly marked or labeled or otherwise adequately identified when received by such Purchaser as being confidential information of the Company or such Subsidiary, *provided* that such term does not include information that (a) was publicly known or otherwise known to such Purchaser prior to the time of such disclosure, (b) subsequently becomes publicly known through no act or omission by such Purchaser or any Person acting on such Purchaser's behalf, (c) otherwise becomes known to such Purchaser other than through disclosure by the Company or any Subsidiary or (d) constitutes financial statements delivered to such Purchaser under Section 7.1 that are otherwise publicly available. Each Purchaser will maintain the confidentiality of such Confidential Information in accordance with procedures adopted by such Purchaser in good faith to protect confidential information of third parties delivered to such

Purchaser, *provided* that such Purchaser may deliver or disclose Confidential Information to (i) such Purchaser's directors, trustees, officers, employees, agents, attorneys and affiliates (to the extent such disclosure reasonably relates to the administration of the investment represented by such Purchaser's Notes), such Purchaser's financial advisors and other professional advisors, in each case, who agree to hold confidential the Confidential Information substantially in accordance with the terms of this Section 20, (ii) any other holder of any Note, (iii) any Institutional Investor to which such Purchaser sells or offers to sell such Note or any part thereof or any participation therein (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by the provisions of this Section 20), (iv) any federal or state regulatory authority having jurisdiction over such Purchaser, (v) the National Association of Insurance Commissioners or any similar organization, or any nationally recognized rating agency that requires access to information about such Purchaser's investment portfolio, or (vi) any other Person to which such delivery or disclosure may be necessary or appropriate (w) to effect compliance with any law, rule, regulation or order applicable to such Purchaser, (x) in response to any subpoena or other legal process, (y) in connection with any litigation to which such Purchaser is a party or (z) if an Event of Default has occurred and is continuing, to the extent such Purchaser may reasonably determine such delivery and disclosure to be necessary or appropriate in the enforcement or for the protection of the rights and remedies under such Purchaser's Notes, the Subsidiary Guaranty and this Agreement. Each holder of a Note, by its acceptance of a Note, will be deemed to have agreed to be bound by and to be entitled to the benefits of this Section 20 as though it were a party to this Agreement. On reasonable request by the Company in connection with the delivery to any holder of a Note of information required to be delivered to such holder under this Agreement or requested by such holder (other than a holder that is a party to this Agreement or its nominee), such holder will enter into an agreement with the Company embodying the provisions of this Section 20.

Section 21. Substitution of Purchaser.

Each Purchaser shall have the right to substitute any one of its Affiliates as the purchaser of the Notes that it has agreed to purchase hereunder, by written notice to the Company, which notice shall be signed by both such Purchaser and such Affiliate, shall contain such Affiliate's agreement to be bound by this Agreement and shall contain a confirmation by such Affiliate of the accuracy with respect to it of the representations set forth in Section 6. Upon receipt of such notice, any reference to such Purchaser in this Agreement (other than in this Section 21), shall be deemed to refer to such Affiliate in lieu of such original Purchaser. In the event that such Affiliate is so substituted as a Purchaser hereunder and such Affiliate thereafter transfers to such original Purchaser all of the Notes then held by such Affiliate, upon receipt by the Company of notice of such transfer, any reference to such Affiliate as a "Purchaser" in this Agreement (other than in this Section 21), shall no longer be deemed to refer to such Affiliate, but shall refer to such original Purchaser, and such original Purchaser shall again have all the rights of an original holder of the Notes under this Agreement.

Section 22. Miscellaneous.

Section 22.1. Successors and Assigns. All covenants and other agreements contained in this Agreement by or on behalf of any of the parties hereto bind and inure to the benefit of their

respective successors and assigns (including, without limitation, any subsequent holder of a Note) whether so expressed or not.

Section 22.2. Payments Due on Non-Business Days. Anything in this Agreement or the Notes to the contrary notwithstanding (but without limiting the requirement in Section 8.5 that the notice of any optional prepayment specify a Business Day as the date fixed for such prepayment), any payment of principal of or Make-Whole Amount or interest on any Note that is due on a date other than a Business Day shall be made on the next succeeding Business Day without including the additional days elapsed in the computation of the interest payable on such next succeeding Business Day; provided that if the maturity date of any Note is a date other than a Business Day, the payment otherwise due on such maturity date shall be made on the next succeeding Business Day and shall include the additional days elapsed in the computation of interest payable on such next succeeding Business Day.

Section 22.3. Accounting Terms. All accounting terms used herein which are not expressly defined in this Agreement have the meanings respectively given to them in accordance with GAAP. Except as otherwise specifically provided herein, (i) all computations made pursuant to this Agreement shall be made in accordance with GAAP, and (ii) all financial statements shall be prepared in accordance with GAAP.

Section 22.4. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall (to the full extent permitted by law) not invalidate or render unenforceable such provision in any other jurisdiction.

Section 22.5. Construction. Each covenant contained herein shall be construed (absent express provision to the contrary) as being independent of each other covenant contained herein, so that compliance with any one covenant shall not (absent such an express contrary provision) be deemed to excuse compliance with any other covenant. Where any provision herein refers to action to be taken by any Person, or which such Person is prohibited from taking, such provision shall be applicable whether such action is taken directly or indirectly by such Person.

For the avoidance of doubt, all Schedules and Exhibits attached to this Agreement shall be deemed to be a part hereof.

Section 22.6. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one instrument. Each counterpart may consist of a number of copies hereof, each signed by less than all, but together signed by all, of the parties hereto.

Section 22.7. Governing Law. This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the law of the State of New York excluding choice-of-law principles of the law of such State that would permit the application of the laws of a jurisdiction other than such State.

Section 22.8. Jurisdiction and Process; Waiver of Jury Trial. (a) The Company and each Purchaser irrevocably submits to the non-exclusive jurisdiction of any New York State or federal court sitting in the Borough of Manhattan, The City of New York, over any suit, action or proceeding arising out of or relating to this Agreement or the Notes. To the fullest extent permitted by applicable law, the Company irrevocably waives and agrees not to assert, by way of motion, as a defense or otherwise, any claim that it is not subject to the jurisdiction of any such court, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding brought in any such court and any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

(b) The Company and each Purchaser consent to process being served on it by the Company or any Purchaser in any suit, action or proceeding of the nature referred to in Section 22.8(a) by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, return receipt requested, to it at its address specified in Section 18 or at such other address of which such Person shall then have been notified pursuant to said Section. The Company and each Purchaser agree that such service upon receipt (i) shall be deemed in every respect effective service of process upon it in any such suit, action or proceeding and (ii) shall, to the fullest extent permitted by applicable law, be taken and held to be valid personal service upon and personal delivery to it. Notices hereunder shall be conclusively presumed received as evidenced by a delivery receipt furnished by the United States Postal Service or any reputable commercial delivery service.

(c) Nothing in this Section 22.8 shall affect the right of the Company or any holder of a Note to serve process in any manner permitted by law, or limit any right that the holders of any of the Notes may have to bring proceedings against the Company in the courts of any appropriate jurisdiction or to enforce in any lawful manner a judgment obtained in one jurisdiction in any other jurisdiction.

(d) The parties hereto hereby waive trial by jury in any action brought on or with respect to this Agreement, the Notes or any other document executed in connection herewith or therewith.

(e) Each holder of a Note, by its acceptance of a Note, will be deemed to be bound by and to be entitled to the benefits of this Section 22.8 as though it were a party to this Agreement.

* * * * *

The execution hereof by the Purchasers shall constitute a contract among the Company and the Purchasers for the uses and purposes hereinabove set forth. This Agreement may be executed in any number of counterparts, each executed counterpart constituting an original but all together only one agreement.

Very truly yours,

The Hain Celestial Group, Inc.

By /s/ Ira J. Lamel

Name: Ira J. Lamel

Title: Executive Vice President and Chief
Financial Officer

Accepted as of the first date written above.

ING Life Insurance and Annuity Company
ING USA Annuity and Life Insurance Company
ReliaStar Life Insurance Company
ReliaStar Life Insurance Company of New York

By: ING Investment Management LLC, as Agent

By /s/ James V. Wittich
Name: James V. Wittich
Title: Senior Vice President

Accepted as of the first date written above.

The Guardian Life Insurance Company of America

By /s/ Brian Keating
Name: Brian Keating
Title: Director, Fixed Income

Berkshire Life Insurance Company of America

By /s/ Brian Keating
Name: Brian Keating
Title: Director, Fixed Income

Accepted as of the first date written above.

United of Omaha Life Insurance Company

By /s/ Curtis R. Caldwell
Name: Curtis R. Caldwell
Title: Vice President

Companion Life Insurance Company

By /s/ Curtis R. Caldwell
Name: Curtis R. Caldwell
Title: Authorized Signer

Accepted as of the first date written above.

Modern Woodmen of America

By /s/ W. Kenny Massey.

Name: W. Kenny Massey

Title: President & CEO

Accepted as of the first date written above.

Life Insurance Company of the Southwest

By /s/ J. Michael Mancini, Jr.
Name: J. Michael Mancini, Jr.
Title: Vice President

Accepted as of the first date written above.

The Travelers Indemnity Company

By /s/ David D. Rowland

Name: David D. Rowland

Title: Senior Vice President

Accepted as of the first date written above.

American International Life Assurance Company of New York
First SunAmerica Life Insurance Company
Merit Life Insurance Co.
The United States Life Insurance Company in the City of New York
The Variable Annuity Life Insurance Company

By: AIG Global Investment Corp., investment adviser

By /s/ Peter DeFazio
Name: Peter DeFazio
Title: Vice President

Accepted as of the first date written above.

AgFirst Farm Credit Bank

By /s/ R. Scott Higgins

Name: R. Scott Higgins

Title: Vice President

Sentinel Asset Management

Defined Terms

As used herein, the following terms have the respective meanings set forth below or set forth in the Section hereof following such term:

“*Acquisition Debt*” means any Debt incurred in connection with the acquisition by the Company or any Restricted Subsidiary of any Person or line of business, *provided*, that, at such time and after giving effect to such acquisition, the Company and its Restricted Subsidiaries are in compliance with Section 10.8.

“*Affiliate*” means, at any time, and with respect to any Person, (a) any other Person that at such time directly or indirectly through one or more intermediaries Controls, or is Controlled by, or is under common Control with, such first Person, and (b) any Person beneficially owning or holding, directly or indirectly, 10% or more of any class of voting or equity interests of the Company or any Subsidiary or any Person of which the Company and its Subsidiaries beneficially own or hold, in the aggregate, directly or indirectly, 10% or more of any class of voting or equity interests. As used in this definition, “*Control*” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. Unless the context otherwise clearly requires, any reference to an “*Affiliate*” is a reference to an Affiliate of the Company.

“*Anti-Terrorism Order*” means Executive Order No. 13,224 of September 24, 2001, Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism, 66 U.S. Fed. Reg. 49, 079 (2001), as amended.

“*Applicable Interest Rate*” means either (a) 5.98% per annum, or (b) 6.23% per annum during the applicable period in which the Consolidated Debt to Consolidated EBITDA ratio exceeds 3.50 to 1.0 in accordance with the terms of Section 1.2(b).

“*Bank Credit Agreement*” means the Amended and Restated Credit Agreement dated as of May 2, 2006 by and among the Company, certain Subsidiaries of the Company named therein, Bank of America, N.A., as administrative agent, and the other financial institutions party thereto, as amended, restated, joined, supplemented or otherwise modified from time to time, and any renewals, extensions or replacements thereof, which constitute the primary bank credit facility of the Company and its Subsidiaries.

“*Business Day*” means any day other than a Saturday, a Sunday or a day on which commercial banks in New York, New York are required or authorized to be closed.

“*Capital Lease*” means, at any time, a lease with respect to which the lessee is required concurrently to recognize the acquisition of an asset and the incurrence of a liability in accordance with GAAP.

“*Capital Lease Obligation*” means, with respect to any Person and a Capital Lease, the amount of the obligation of such Person as the lessee under such Capital Lease which would, in accordance with GAAP, appear as a liability on a balance sheet of such Person.

“*Closing*” is defined in Section 3.

“*Code*” means the Internal Revenue Code of 1986, as amended from time to time, and the rules and regulations promulgated thereunder from time to time.

“*Company*” means The Hain Celestial Group, Inc., a Delaware corporation.

“*Confidential Information*” is defined in Section 20.

“*Consolidated Debt*” means as of any date of determination the total amount of all Debt of the Company and its Restricted Subsidiaries determined on a consolidated basis in accordance with GAAP.

“*Consolidated EBITDA*” shall mean, for any period, Consolidated Net Income for such period, plus, to the extent deducted in computing such Consolidated Net Income and without duplication, (a) depreciation, depletion, if any, and amortization expense for such period, (b) Consolidated Interest Expense for such period, (c) income tax expense for such period, (d) other non cash charges for such period, (e) reasonable and customary acquisition or merger charges, restructuring charges that are both non cash and non-recurring and impairment of assets write-offs that are both non cash and non-recurring, (f) reasonable and customary charges which arise from the existence and subsequent write-off of duplicative facilities related directly an acquisition consummated by the Company or any Restricted Subsidiaries, and (g) cumulative non cash change in accounting effects or non cash extraordinary items, and minus the sum of (y) all extraordinary or unusual gains, and (z) all interest income all as determined in accordance with GAAP. For purposes of calculating Consolidated EBITDA for any period of four consecutive quarters, if during such period the Company or any Restricted Subsidiary shall have acquired or disposed of any Person or acquired or disposed of all or substantially all of the operating assets of any Person, Consolidated EBITDA for such period shall be calculated after giving pro forma effect thereto as if such transaction occurred on the first day of such period.

“*Consolidated Interest Expense*” shall mean, for any period, the gross interest expense of the Company and its Restricted Subsidiaries deducted in the calculation of Consolidated Net Income for such period, determined on a consolidated basis in accordance with GAAP.

“*Consolidated Net Income*” shall mean, for any period, the consolidated net income (or loss) of the Company and its Restricted Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP.

“*Consolidated Net Worth*” shall mean the consolidated stockholder’s equity of the Company and its Restricted Subsidiaries, as defined according to GAAP.

“*Consolidated Total Assets*” means, as of any date of determination, the total amount of all assets of the Company and its Restricted Subsidiaries, determined on a consolidated basis in accordance with GAAP.

“*Debt*” means, with respect to any Person, without duplication,

- (a) its liabilities for borrowed money;
- (b) its liabilities for the deferred purchase price of property acquired by such Person (excluding accounts payable and other accrued liabilities arising in the ordinary course of business but including, without limitation, all liabilities created or arising under any conditional sale or other title retention agreement with respect to any such property);
- (c) its Capital Lease Obligations;
- (d) its liabilities for borrowed money secured by any Lien with respect to any property owned by such Person (whether or not it has assumed or otherwise become liable for such liabilities); and
- (e) Guarantees by such Person with respect to liabilities of a type described in any of clauses (a) through (d) hereof.

Debt of any Person shall include all obligations of such Person of the character described in clauses (a) through (e) to the extent such Person remains legally liable in respect thereof notwithstanding that any such obligation is deemed to be extinguished under GAAP.

“*Default*” means an event or condition the occurrence or existence of which would, with the lapse of time or the giving of notice or both, become an Event of Default.

“*Default Rate*” means with respect to the Notes that rate of interest that is 2% per annum above the Applicable Interest Rate.

“*Due On Sale Debt*” means any Debt of a Person being acquired by the Company or a Restricted Subsidiary that becomes due as a result of the consummation of such acquisition by the Company or a Restricted Subsidiary.

“*Environmental Law*” shall mean any applicable law, ordinance, rule, regulation, or policy having the force of law of any Governmental Authority relating to pollution or protection of the environment or to the use, handling, transportation, treatment, storage, disposal, release or discharge of Hazardous Materials, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), and the rules and regulations promulgated pursuant thereto.

“*ERISA*” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder from time to time in effect.

“*ERISA Affiliate*” means any trade or business (whether or not incorporated) that is treated as a single employer together with the Company under section 414 of the Code.

“*Event of Default*” is defined in Section 11.

“*Exchange Act*” means the Securities Exchange Act of 1934, as amended.

“*Fair Market Value*” means, at any time and with respect to any property, the sale value of such property that would be realized in an arm’s-length sale at such time between an informed and willing buyer and an informed and willing seller (neither being under a compulsion to buy or sell), as reasonably determined in the good faith opinion of the Company’s board of directors.

“*GAAP*” means those generally accepted accounting principles as in effect from time to time in the United States of America; provided that, if the Company notifies the Required Holders that the Company wishes to amend any negative covenants (or any definition hereof) to eliminate the effect of any change in generally accepted accounting principles on the operation of such covenant or definition, then the Company’s compliance with such covenant or the meaning of such definition shall be determined on the basis of generally accepted accounting principles in effect immediately before the relevant change in generally accepted accounting principles became effective, until either such notice is withdrawn or such covenant is amended in a manner satisfactory to the Company and the Required Holders.

“*Governmental Authority*” means

- (a) the government of
 - (i) the United States of America or any state or other political subdivision thereof, or
 - (ii) any jurisdiction in which the Company or any Restricted Subsidiary conducts all or any part of its business, or which has jurisdiction over any properties of the Company or any Restricted Subsidiary, or
- (b) any entity exercising executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, any such government.

“*Government Obligations*” shall mean direct obligations of the United States of America or any agency or instrumentality of the United States of America, the payment or guarantee of which constitutes a full faith and credit obligation of the United States of America.

“*Guaranty*” means, with respect to any Person, any obligation (except the endorsement in the ordinary course of business of negotiable instruments for deposit or collection) of such Person guaranteeing or in effect guaranteeing any Debt, dividend or other obligation of any other Person in any manner, whether directly or indirectly, including (without limitation) obligations incurred through an agreement, contingent or otherwise, by such Person:

- (a) to purchase such Debt or obligation or any property constituting security therefor primarily for the purpose of assuring the owner of such Debt or obligation of the ability of any other Person to make payment of the Debt or obligation;
- (b) to advance or supply funds (i) for the purchase or payment of such Debt or obligation, or (ii) to maintain any working capital or other balance sheet condition or any income statement condition of any other Person or otherwise to advance or make available funds for the purchase or payment of such Debt or obligation;
- (c) to lease properties or to purchase properties or services primarily for the purpose of assuring the owner of such Debt or obligation of the ability of any other Person to make payment of the Debt or obligation; or
- (d) otherwise to assure the owner of such Debt or obligation against loss in respect thereof.

In any computation of the Debt or other liabilities of the obligor under any Guaranty, the Debt or other obligations that are the subject of such Guaranty shall be assumed to be direct obligations of such obligor, *provided* that the amount of such Debt outstanding for purposes of this Agreement shall not exceed the maximum amount of Debt that is the subject of such Guaranty.

“*Hazardous Materials*” shall mean any explosives, radioactive materials, or other materials, wastes, substances, or chemicals regulated as toxic or hazardous or as a pollutant, contaminant or waste under any applicable Environmental Law.

“*holder*” means, with respect to any Note, the Person in whose name such Note is registered in the register maintained by the Company pursuant to Section 13.1.

“*Institutional Investor*” means (a) any original purchaser of a Note, (b) any holder of more than \$2,000,000 of the aggregate principal amount of the Notes then outstanding, and (c) any bank, trust company, savings and loan association or other financial institution, any pension plan, any investment company, any insurance company, any broker or dealer, or any other similar financial institution or entity, regardless of legal form.

“*Intellectual Property*” is defined in Section 5.11.

“*Investments*” shall mean all investments, in cash or by delivery of property made, directly or indirectly in any Person, whether by acquisition of shares of capital stock, Debt or other obligations or securities or by loan, advance, capital contribution or otherwise.

ÖLienÖ means any mortgage, pledge, security interest, hypothecation, assignment, deposit arrangement, encumbrance, or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement, any Capital Lease and any financing lease having substantially the same economic effect as any of the foregoing).

“*Make-Whole Amount*” shall have the meaning set forth in Section 8.7 with respect to any Note.

“*Material*” means material in relation to the business, operations, affairs, financial condition, assets or properties of the Company and its Restricted Subsidiaries taken as a whole.

“*Material Adverse Effect*” means a material adverse effect on (a) the business, operations, financial condition, assets or properties of the Company and its Restricted Subsidiaries taken as a whole, or (b) the ability of the Company to perform its obligations under this Agreement and the Notes, (c) the ability of any Subsidiary Guarantor to perform its obligations under the Subsidiary Guaranty or (d) the validity or enforceability of this Agreement, the Notes or the Subsidiary Guaranty.

“*Material Subsidiary*” means, at any time, any Restricted Subsidiary of the Company which, together with all other Restricted Subsidiaries of such Restricted Subsidiary, accounts for more than (i) 5% of the consolidated assets of the Company and its Restricted Subsidiaries or (ii) 5% of consolidated revenue of the Company and its Restricted Subsidiaries.

“*Memorandum*” is defined in Section 5.3.

“*Moody’s*” shall mean Moody Investors Service, Inc.

“*Multiemployer Plan*” means any Plan that is a “multiemployer plan” (as such term is defined in Section 4001(a)(3) of ERISA).

“*Notes*” is defined in Section 1 of this Agreement.

“*Officer’s Certificate*” means a certificate of a Senior Financial Officer or of any other officer of the Company whose responsibilities extend to the subject matter of such certificate.

“*PBGC*” means the Pension Benefit Guaranty Corporation referred to and defined in ERISA or any successor thereto.

“*Permitted Securitization Transaction*” means any transaction or group of transactions typically referred to as a securitization in which the Company or any Restricted Subsidiary sells, directly or indirectly through another Person, its accounts receivable on a limited recourse basis (*i.e.*, other than for recourse relating to, *e.g.*, certain bad acts or breaches of representations or warranties) *provided* that (i) each such transaction is treated as a legal true sale to a special purpose bankruptcy remote entity that obtains debt financing to finance the purchase price, and (ii) each such transaction qualifies as a sale under GAAP.

“*Person*” means an individual, partnership, corporation, limited liability company, association, trust, unincorporated organization, or a government or agency or political subdivision thereof.

“*Plan*” means an “employee benefit plan” (as defined in Section 3(3) of ERISA) that is or, within the preceding five years, has been established or maintained, or to which contributions are or, within the preceding five years, have been made or required to be made, by the Company or any ERISA Affiliate or with respect to which the Company or any ERISA Affiliate may have any liability.

“*Priority Debt*” means (without duplication), as of the date of any determination thereof, the sum of (i) all unsecured Debt of Restricted Subsidiaries (including all Guaranties of Debt of the Company but excluding (x) Debt owing to the Company or any Restricted Subsidiary, (y) Debt outstanding at the time such Person became a Restricted Subsidiary (other than an Unrestricted Subsidiary which is designated as a Restricted Subsidiary pursuant to Section 9.6 hereof), provided that such Debt shall have not been incurred in contemplation of such person becoming a Restricted Subsidiary, and (z) all Guaranties of Debt of the Company by any Restricted Subsidiary which has also guaranteed the Notes and (ii) all Debt of the Company and its Restricted Subsidiaries secured by Liens other than Debt secured by Liens permitted by subparagraphs (a) through (k), inclusive, of Section 10.3.

“*property*” or “*properties*” means, unless otherwise specifically limited, real or personal property of any kind, tangible or intangible, choate or inchoate.

“*Purchasers*” means the purchasers of the Notes named in Schedule A hereto.

“*QPAM Exemption*” means Prohibited Transaction Class Exemption 84-14 issued by the United States Department of Labor.

“*Qualified Institutional Buyer*” means any Person who is a qualified institutional buyer within the meaning of such term as set forth in Rule 144(a)(1) under the Securities Act.

“*Ratable Portion*” means, with respect to any Note, an amount equal to the product of (x) the amount equal to the net proceeds being so applied to the prepayment of Senior Debt in accordance with Section 10.4(2), multiplied by (y) a fraction the numerator of which is the outstanding principal amount of such Note and the denominator of which is the aggregate principal amount of Senior Debt of the Company and its Restricted Subsidiaries being prepaid pursuant to Sections 8.4 and 10.4(2).

“*Required Holders*” means, at any time, the holders of more than 50% in principal amount of the Notes at the time outstanding (exclusive of Notes then owned by the Company or any of its Affiliates and any Notes held by parties who are contractually required to abstain from voting with respect to matters affecting the holders of the Notes).

“*Responsible Officer*” means any Senior Financial Officer and any other officer of the Company with responsibility for the administration of the relevant portion of this Agreement.

“*Restricted Subsidiary*” means any Subsidiary in which: (i) at least a majority of the voting securities are owned by the Company and/or one or more Restricted Subsidiaries and (ii) the Company has not designated an Unrestricted Subsidiary by notice in writing given to the holders of the Notes.

“*S&P*” means Standard & Poor’s Ratings Group, a division of The McGraw-Hill Companies, Inc.

“*Securities Act*” means the Securities Act of 1933, as amended from time to time.

“*Senior Debt*” means, as of the date of any determination thereof, all Consolidated Debt, other than Subordinated Debt.

“*Senior Financial Officer*” means the chief financial officer, principal accounting officer, treasurer or comptroller of the Company.

“*Subordinated Debt*” means all unsecured Debt of the Company which shall contain or have applicable thereto subordination provisions providing for the subordination thereof to other Debt of the Company (including, without limitation, the obligations of the Company under this Agreement).

“*Subsidiary*” means, as to any Person, any corporation, association or other business entity in which such Person or one or more of its Subsidiaries or such Person and one or more of its Subsidiaries owns sufficient equity or voting interests to enable it or them (as a group) ordinarily, in the absence of contingencies, to elect a majority of the directors (or Persons performing similar functions) of such entity, and any partnership or joint venture if more than a 50% interest in the profits or capital thereof is owned by such Person or one or more of its Subsidiaries or such Person and one or more of its Subsidiaries (unless such partnership can and does ordinarily take major business actions without the prior approval of such Person or one or more of its Subsidiaries). Unless the context otherwise clearly requires, any reference to a “Subsidiary” is a reference to a Subsidiary of the Company.

“*Subsidiary Guarantor*” means each Subsidiary which is party to the Subsidiary Guaranty.

“*Subsidiary Guaranty*” is defined in Section 2.2 of this Agreement.

“*Target Company*” means any Person that (i) is acquired by the Company or any Restricted Subsidiary and is designated as a Restricted Subsidiary on the date such Target Company is so acquired, and (ii) is an obligor of any Due On Sale Debt.

“*Transition Period*” means the period commencing on the date the Company or any Restricted Subsidiary acquires any Person or line of business, provided that at such time and after giving effect thereto the Company and its Restricted Subsidiaries are in compliance with Section 10.8, and ending on the last day of the fourth full fiscal quarter following the date of the consummation of such acquisition.

“*Unrestricted Subsidiary*” means any Subsidiary so designated by the Company.

“*USA Patriot Act*” means United States Public Law 107-56, Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, as amended from time to time, and the rules and regulations promulgated thereunder from time to time in effect.

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**THE HAIN CELESTIAL GROUP
ANNOUNCES AN ENHANCED CREDIT FACILITY
AND THE PRIVATE PLACEMENT OF FIXED RATE SENIOR NOTES**

Melville, NY, May 3, 2006—The Hain Celestial Group, Inc. (NASDAQ HAIN), a leading natural and organic food and personal care products company, today announced the closing of its new Amended and Restated Credit Agreement providing a \$250 million, LIBOR-based 5-year revolving credit facility and private placement of \$150 million, 10-year fixed-rate 5.98% senior notes led by Banc of America Securities, LLC.

The Amended and Restated Credit Agreement provides for borrowings at LIBOR plus a margin based on a ratio of the Company's debt to EBITDA, as defined in the agreement. With the Company's growth, strong balance sheet and excellent credit profile, the new agreement provides for a significantly reduced margin spread over LIBOR, and significantly reduced covenant requirements. The Company's sale of 10-year senior notes fixes the Company's financing cost on this \$150 million financing.

"We are pleased to have worked with several leading banks and institutions to provide Hain Celestial with a capital structure to sustain our next level of growth," said Irwin D. Simon, President and Chief Executive Officer. "These financings enable us to maintain flexibility with our working capital, provide access to acquisition financing and to secure fixed-rate, long-term debt while maintaining a strong balance sheet," concluded Ira J. Lamel, Executive Vice President and Chief Financial Officer."

The Hain Celestial Group

The Hain Celestial Group (NASDAQ: HAIN), headquartered in Melville, NY, is a leading natural and organic food and personal care products company in North America and Europe. Hain Celestial participates in almost all natural food categories with well-known brands that include Celestial Seasonings®, Terra Chips®, Garden of Eatin'®, Health Valley®, WestSoy®, Earth's Best®, Arrowhead Mills®, DeBoles®, Hain Pure Foods®, Raised Right™, Hollywood®, Spectrum Naturals®, Spectrum Essentials®, Walnut Acres Organic™, Imagine Foods®, Rice Dream®, Soy Dream®, Rosetto®, Ethnic Gourmet®, Yves Veggie



Cuisine®, Lima®, Biomarché™, Grains Noirs®, Natumi®, JASON®, Zia® Natural Skincare, Queen Helene®, Batherapy® and Foototherapy®. For more information, visit www.hain-celestial.com.

Safe Harbor Statement

This press release contains forward-looking statements within and constitutes a "Safe Harbor" statement under the Private Securities Litigation Act of 1995. Except for the historical information contained herein, the matters discussed in this press release are forward-looking statements that involve known and unknown risks and uncertainties, which could cause our actual results to differ materially from those described in the forward-looking statements. These risks include but are not limited to general economic and business conditions; the ability to implement business and acquisition strategies, and integrate acquisitions; competition; retention of key personnel; compliance with government regulations and other risks detailed from time-to-time in the Company's reports filed with the Securities and Exchange Commission, including the report on Form 10-K for the fiscal year ended June 30, 2005. The forward-looking statements made in this press release are current as of the date of this press release, and the Company does not undertake any obligation to update forward-looking statements.