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:

April 4, 2007
(March 29, 2007)
(Date of earliest event reported)

SPECTRUM BRANDS, INC.
(Exact Name of Registrant as Specified in Charter)

Wisconsin	001-13615	22-2423556
(State or other Jurisdiction of Incorporation)	(Commission File No.)	(IRS Employer Identification No.)

Six Concourse Parkway, Suite 3300, Atlanta, Georgia 30328
(Address of principal executive offices, including zip code)

(770) 829-6200
(Registrant's telephone number, including area code)

N/A
(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:

o Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

o Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

o Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

o Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01 ENTRY INTO A MATERIAL DEFINITIVE AGREEMENT

Variable Rate Toggle Senior Subordinated Notes due 2013

As previously publicly disclosed, on March 30, 2007, the Company exchanged Variable Rate Toggle Senior Subordinated Notes due 2013 ("New Notes") for its 8 1/2% Senior Subordinated Notes due 2013 ("Existing Notes") in an early exchange pursuant to the terms of an exchange offer ("Exchange Offer"). On the date of and in connection with the early exchange, the Company and certain of its domestic subsidiaries, as guarantors, entered into an indenture (the "Indenture") with Wells Fargo Bank, N.A., as trustee (the "Trustee"), governing the New Notes.

Subject to certain conditions, the Company has the option to pay interest on the New Notes entirely in cash or by increasing the principal amount of the New Notes. The New Notes bear interest at an initial rate of 11%, increasing to 11.25% on April 2, 2007 and thereafter increasing semi-annually, which interest rate varies depending on whether interest is paid in cash or increased principal. Interest will be payable semi-annually in arrears on October 2 and April 2, beginning on October 2, 2007. The Company will make each interest payment to the holders of records as of the immediately preceding March 15 and September 15, respectively. The New Notes are general unsecured obligations of the Company. They are subordinated in right of payment to all existing and future senior debt of the Company, including the indebtedness of the Company under its New Senior Credit Facility (as defined below). The New Notes are pari passu in right of payment with all existing and any future senior subordinated indebtedness of the Company, including, without limitation, the Company's 7 3/8% Senior Subordinated Notes due 2015 and its remaining 8 1/2% Senior Subordinated Notes due 2013, and are senior in right of payment to any future subordinated indebtedness of the Company. The New Notes are scheduled to mature on October 2, 2013.

The terms of the New Notes are governed by the Indenture. The Indenture contains customary covenants that limit the Company's ability to, among other things, incur additional indebtedness, pay dividends on or redeem or repurchase the Company's equity interests, make certain investments, expand into unrelated businesses, create liens on assets, merge or consolidate with another company, transfer or sell all or substantially all of the Company's assets, and enter into transactions with affiliates. Upon the occurrence of a "change of control," as defined in the Indenture, the Company is required to make an offer to repurchase the outstanding New Notes for a redemption price, which redemption price begins at 110% (expressed as a percentage of the principal amount being repurchased) and declines to 100% on October 1, 2010, in each case plus accrued and unpaid interest on such principal.

The Company may redeem all or a part of the New Notes upon not less than 30 nor more than 60 days' notice, at redemption prices (expressed as percentages of principal amount) beginning at 110% of the principal amount thereof and declining to 100% on October 1, 2010, in each case plus accrued and unpaid interest on such principal.

In addition, the Indenture is subject to customary events of default, including failure to make required payments, failure to comply with certain agreements or covenants, failure to make payments on or acceleration of certain other indebtedness, and certain events of bankruptcy and insolvency. Events of default under the Indenture arising from certain events of bankruptcy or insolvency will automatically cause the acceleration of the amounts due under the New Notes. If any other event of default under the Indenture occurs and is continuing, the Trustee or the registered holders of at least 25% in aggregate principal amount of the then outstanding New Notes may declare the acceleration of the amounts due under the New Notes.

A copy of the Indenture is attached hereto as Exhibit 4.1 and is incorporated herein by reference. The foregoing description of the Indenture is qualified in its entirety by reference to the full text of the Indenture.

Supplement to Existing Indenture

On March 29, 2007, the Company, U.S. Bank National Association, as trustee, and certain domestic subsidiaries of the Company entered into the Fifth Supplemental Indenture (the "Fifth Supplemental Indenture") to the indenture dated as of September 30, 2003 (as previously supplemented, the "Existing Indenture") governing the Company's 8 1/2% Senior Subordinated Notes due 2013. The Fifth Supplemental Indenture (i) amends the Existing Indenture to eliminate substantially all of the restrictive covenants and certain event of default provisions contained in the Existing Indenture and (ii) contains a waiver of any alleged or existing default or event of default under the Indenture which has been asserted by certain holders of the Existing Notes who previously delivered a purported notice of default to the Company relating to the incurrence of indebtedness, limitations on senior subordinated debt, incurrence of liens and delivery of notices under the Existing Indenture.

A copy of the Fifth Supplemental Indenture is attached hereto as Exhibit 4.2 and is incorporated herein by reference. The foregoing description of the Fifth Supplemental Indenture is qualified in its entirety by reference to the full text of the Fifth Supplemental Indenture.

New Credit Agreement and Guarantee and Collateral Agreement

On March 30, 2007, the Company, Goldman Sachs Credit Partners L.P. ("GSCP"), as administrative agent and syndication agent, Goldman Sachs Credit Partners L.P. and Banc of America Securities LLC ("BAS"), as joint lead arrangers and joint bookrunners and the lenders party thereto, entered into the Credit Agreement (the "Senior Credit Facility"). The Senior Credit Facility provides the opportunity to borrow in domestic and foreign currencies through various term loan facilities in an aggregate amount of $1.55 billion, consisting of $1 billion ("Term B") and $200 million ("Term B II") U.S. Dollar term loan facilities as well as a $350 million Euro term loan facility ("Euro Facility" and, collectively, the "Term Loan Facilities"). The Senior Credit Facility also provides for a synthetic letter of credit facility with initial aggregate commitments of $50 million (a "Letter of Credit Facility"). In addition, the Senior Credit Facility permits a portion of the Term Loan Facilities in an aggregate principal amount of up to $300 million to be replaced with an asset based loan facility. The proceeds of borrowings under the Term Loan Facilities may be used solely to repay outstanding obligations under the Company's Fourth Amended and Restated Credit Agreement, dated as of February 7, 2005, and to pay fees and expenses in connection with the Exchange Offer and related transactions, and to use any remaining proceeds for general corporate purposes. Letters of credit issued under the Letter of Credit Facility may be used solely to support ordinary course obligations of the Company and its subsidiaries.

The interest and fees per annum are calculated on a 365-day (or 366-day, as the case may be) basis for Base Rate (as defined below) loans when the Base Rate is determined by reference to the Prime Rate (as defined below). All other computations of interest and fees are calculated on the basis of a 360-day year and actual days elapsed. Base rate ("Base Rate") interest is an alternate base rate equal to the greater of (i) the prime rate, as defined in the Credit Agreement (the "Prime Rate"), and (ii) the federal funds effective rate in effect on such day published by the Federal Reserve Bank in New York plus 1/2 of 1%. At the Company's option and subject to certain conditions, interest on U.S. dollar-denominated loans will accrue at a reserve-adjusted LIBOR rate for a specified interest period plus a margin rate of 4.00% per annum or the Base Rate plus a margin rate of 3.00% per annum. The loans denominated in Euros will accrue interest at a reserve-adjusted LIBOR rate for a specified interest period plus a margin rate of 4.50% per annum.

Pursuant to the Letter of Credit Facility, the Company is required to pay quarterly participation and fronting fees based on the amount of the letter of credit deposits and the letter of credit exposures, respectively, of the applicable lenders.

The Term Loan Facilities are subject to repayment according to a scheduled amortization, with the final payment of all amounts outstanding, plus accrued and unpaid interest, due on March 30, 2013. Letters of credit issued pursuant to the Letter of Credit Facility are required to expire, at the latest, five business days prior to March 30, 2013.

Voluntary prepayments are applied first to the Term B II facility and then ratably to the Term B facility and Euro Facility. Beginning with the fiscal year ended September 30, 2007, the Senior Credit Facility provides for annual mandatory prepayments, over and above the normal amortization as a result of Excess Cash Flow (as defined in the Senior Credit Facility). The Senior Credit Facility also provides for other mandatory prepayments (subject to certain exceptions and reinvestment provisions) of net proceeds as a result of issuance of debt (excluding certain permitted indebtedness), sales of certain assets above a specified threshold, receipt of proceeds from certain casualty events and the issuance by the Company or any of its subsidiaries of equity interests. The Letter of Credit Facility is subject to an early termination premium of 1.00% (expressed as a percentage of the aggregate amount of the letter of credit commitments terminated) in the event that the letter of credit commitments are terminated in full or substantially in full on or prior to March 30, 2008. In addition, loans made under the Term Loan Facilities are subject to a prepayment premium of 1.00% (as a percentage of the aggregate principal amount of loans prepaid) in the event that such loans are prepaid in full or substantially in full on or prior to March 30, 2008.

The Senior Credit Facility contains financial covenants with respect to debt which include a maximum senior secured leverage ratio. In accordance with the agreement, the limits imposed by such ratio become more restrictive over time. In addition, the Senior Credit Facility contains customary restrictive covenants, including, but not limited to, restrictions on the Company's ability to incur additional indebtedness, create liens, make investments or specified payments, give guarantees, pay dividends, make capital expenditures and merge or acquire or sell assets.

The Senior Credit Facility also contains customary events of default, including, without limitation, payment defaults, breaches of representations and warranties, covenant defaults, cross-defaults to similar obligations, certain events of bankruptcy and insolvency, judgment defaults, failure of any guaranty or security document supporting the Senior Credit Facility to be in full force and effect, change of control and customary ERISA defaults. If an event of default occurs and is continuing, amounts due under the Senior Credit Facility may be accelerated and the rights and remedies of the lenders under the Senior Credit Facility available under the applicable loan documents may be exercised, including rights with respect to the collateral securing obligations under the Senior Credit Facility.

The Senior Credit Facility is secured by substantially all of the Company's domestic assets and the obligations under the Senior Credit Facility are guaranteed pursuant to a guaranty and collateral agreement (the "Guarantee and Collateral Agreement") made by the Company and certain of its subsidiaries on March 30, 2007.

Copies of the Senior Credit Facility and the Guarantee and Collateral Agreement are attached hereto as Exhibits 10.1 and 10.2, respectively, and are incorporated herein by reference. The foregoing descriptions of the Senior Credit Facility and the Guarantee and Collateral Agreement are qualified in their entirety by reference to the full text of the respective agreements.

Certain Relationships

Each of BAS and GSCP and their respective affiliates have performed certain investment banking and advisory services and general banking and financing services for the Company from time to time for which they have received customary fees and expenses. Bank of America, N.A., an affiliate of BAS, was the administrative agent and a lender under the Company's former senior secured credit facility, and Banc of America Bridge LLC, another affiliate of BAS, is an initial lender under the Senior Secured Credit Facility. In addition, BAS has been one of the initial purchasers in connection with offerings of the Company's senior subordinated unsecured notes. Each of BAS, GSCP and their respective affiliates may, from time to time in the future, engage in transactions with and perform services for the Company in the ordinary course of their business for which they will receive customary fees or expenses.

Item 1.02 TERMINATION OF A MATERIAL DEFINITIVE AGREEMENT

On March 30, 2007, Spectrum Brands, Inc. (the "Company") fully prepaid the outstanding loans and paid the other outstanding obligations under its Fourth Amended and Restated Credit Agreement, dated as of February 7, 2005 (the "Existing Credit Agreement"), at which time the Existing Credit Agreement and the related Security Agreement, ROV Guaranty, KGaA Guaranty and UK Guaranty, each dated as of February 7, 2005, were terminated, subject to the survival of any provisions which by their terms survive the prepayment and the termination. The payment included a $1,412,617,690 principal payment, approximately $16 million in accrued interest and approximately $46 million for various fees.

Item 2.03 CREATION OF A DIRECT FINANCIAL OBLIGATION OR AN OBLIGATION UNDER AN OFF-BALANCE SHEET ARRANGEMENT OF THE REGISTRANT

The disclosures under Item 1.01 of this Current Report on Form 8-K relating to the Indenture and the Senior Credit Facility are incorporated into this Item 2.03 by reference.

On March 30, 2007, the Company borrowed $1,550,000,000, or the full amount, of the term loans available for borrowing under the Credit Agreement dated as of March 30, 2007 (the "Credit Agreement"), among the Company and Goldman Sachs Credit Partners L.P., as administrative agent, and the other parties and financial institutions party thereto.

Item 9.01. FINANCIAL STATEMENTS AND EXHIBITS

(d) Exhibits

4.1 Indenture dated as of March 30, 2007, among Spectrum Brands, Inc. (the "Company"), certain subsidiaries of the Company, as guarantors, and Wells Fargo Bank, N.A., as trustee.

4.2	Fifth Supplemental Indenture dated as of March 29, 2007, among the Company, certain subsidiaries of the Company, as guarantors, and U.S. Bank National Association, as trustee.
10.1	Credit Agreement dated as of March 30, 2007, among the Company, Goldman Sachs Credit Partners L.P., as administrative agent, and the other parties and financial institutions party thereto.
10.2	Guarantee and Collateral Agreement dated as of March 30, 2007, among the Company, certain subsidiaries of the Company and Goldman Sachs Credit Partners L.P., as administrative agent.

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: April 4, 2007

SPECTRUM BRANDS, INC.

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Executive Vice President and Chief Financial Officer

EXHIBIT INDEX

Exhibit	Description
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SPECTRUM BRANDS, INC.

VARIABLE RATE TOGGLE SENIOR SUBORDINATED NOTES DUE 2013

INDENTURE

Dated as of March 30, 2007

WELLS FARGO BANK, N.A.

Trustee

CROSS-REFERENCE TABLE*

Trust Indenture Act Section	*Indenture Section*
310(a)(1)	7.10
(a)(2)	7.10
(a)(5)	7.10
(b)	7.10
(c)	N.A.
311(a)	7.11
(b)	7.11
312(a)	2.05
(b)	12.03
(c)	12.03
313(a)	7.06
(b)(2)	7.06
(c)	7.06
(d)	7.06
314(a)	4.03
(c)(1)	12.04
(c)(2)	12.04
(e)	12.05
316(a)(last sentence)	2.09
(a)(1)(A)	6.05
(a)(1)(B)	6.04
317(a)(1)	6.08

* This Cross-Reference Table is not part of this Indenture.

TABLE OF CONTENTS

EXHIBITS

INDENTURE dated as of March 30, 2007 among Spectrum Brands, Inc., a Wisconsin corporation (the "*Company*"), the Guarantors listed in Schedule I hereto and Wells Fargo Bank, N.A., as trustee (the "*Trustee*").

The Company, the Guarantors and the Trustee agree as follows for the benefit of each other and for the equal and proportionate benefit of the Holders of the Variable Rate Toggle Senior Subordinated Notes Due 2013.

ARTICLE I

DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.01 Definitions.

"*Acquired Debt*" means, with respect to any specified Person:

(a) Indebtedness of any other Person existing at the time such other Person is merged with or into, or becomes a Subsidiary of, such specified Person, whether or not such Indebtedness is incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming a Subsidiary of, such specified Person; and

(b) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

"*Additional Notes*" means an additional principal amount of Notes which may be issued in connection with any PIK Payment.

"*Affiliate*" of any specified Person means (a) any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person or (b) any executive officer or director of such specified Person. For purposes of this definition, "control," as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise; *provided* that beneficial ownership of 10% or more of the Voting Stock of a Person shall be deemed to be control. For purposes of this definition, the terms "controlling," "controlled by" and "under common control with" shall have correlative meanings; *provided*, *further*, that each of Paula Grundstücksverwaltungsgesellschaft mbH & Co. Vermietungs-KG, Mannheim and ROSATA Grundstücksvermietungsgesellschaft mbH & Co. Object Dischingen KG, Dusseldorf, shall not be deemed Affiliates of the Company or any of its Restricted Subsidiaries solely by virtue of the beneficial ownership by the Company or its Restricted Subsidiaries of up to 20% of the Voting Stock of each entity.

"*Agent*" means any Registrar, Paying Agent or co-registrar.

"*Applicable Procedures*" means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depositary that apply to such transfer or exchange.

"*Asset Sale*" means:

(a) the sale, lease, conveyance or other disposition of any property or assets; *provided* that the sale, conveyance or other disposition of all or substantially all of the assets of the Company and its Restricted Subsidiaries, taken as a whole, shall be governed by the provisions of Section 4.14 and/or Section 5.01 and not by the provisions of Section 4.10; and

(b) the issuance of Equity Interests by any of the Company's Restricted Subsidiaries or the sale by the Company or any Restricted Subsidiary of Equity Interests in any of its Subsidiaries.

Notwithstanding the preceding, the following items shall be deemed not to be Asset Sales:

(i) any single transaction or series of related transactions that involves assets having a fair market value of less than $5.0 million;

(ii) a transfer of assets between or among the Company and its Restricted Subsidiaries;

(iii) an issuance of Equity Interests by a Restricted Subsidiary to the Company or to another Restricted Subsidiary of the Company;

(iv) the sale, lease or other disposition of equipment, inventory, accounts receivable or other assets in the ordinary course of business;

(v) the sale or other disposition of Cash Equivalents;

(vi) a Restricted Payment that is permitted by Section 4.07;

(vii) any sale or disposition of any property or equipment that has become damaged, worn out, obsolete or otherwise unsuitable or no longer required for use in the ordinary course of the business of the Company or its Restricted Subsidiaries;

(viii) the licensing of intellectual property in the ordinary course of business;

(ix) any sale or other disposition deemed to occur with creating or granting a Lien not otherwise prohibited by this Indenture; and

(x) upon the termination of the VARTA joint venture with VARTA AG, the sale, transfer or other disposition of the Equity Interests in FinanceCo (as defined in the VARTA Joint Venture Agreement) and the forgiveness of any loans owed by VARTA AG, in each case pursuant to, and in accordance with the terms of, the VARTA Joint Venture Agreement as in effect on the date of this Indenture.

"*Bankruptcy Law*" means any law relating to bankruptcy, insolvency, receivership, winding-up, liquidation, reorganization or relief of debtors or any amendment to, succession to or change in any such law, including, without limitation, the state bankruptcy law of the Company or the Guarantor's jurisdiction and title 11, United States Bankruptcy Code of 1978, as amended.

"*Beneficial Owner*" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular "person" (as that term is used in Section 13(d)(3) of the Exchange Act), such "person" shall be deemed to have beneficial ownership of all securities that such "person" has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition. The terms "Beneficially Owns" and "Beneficially Owned" shall have a corresponding meaning.

"*Board of Directors*" means (a) with respect to a corporation, the board of directors of the corporation; (b) with respect to a partnership, the Board of Directors of the general partner of the partnership; and (c) with respect to any other Person, the board or committee of such Person serving a similar function.

"*Business Day*" means any day other than a Legal Holiday.

"*Capital Lease Obligation*" means, at the time any determination thereof is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet in accordance with GAAP.

"*Capital Stock*" means (a) in the case of a corporation, corporate stock; (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock; (c) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and (d) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

"*Cash Equivalents*" means (a) United States dollars; (b) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof (*provided* that the full faith and credit of the United States is pledged in support thereof) having maturities of not more than six months from the date of acquisition; (c) certificates of deposit and eurodollar time deposits with maturities of six months or less from the date of acquisition, bankers' acceptances with maturities not exceeding six months and overnight bank deposits, in each case, with any domestic commercial bank having capital and surplus in excess of $500.0 million and a Thomson Bank Watch Rating of "B" or better; (d) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (b) and (c) above entered into with any financial institution meeting the qualifications specified in clause (c) above; (e) commercial paper having the highest rating obtainable from Moody's or S&P and in each case maturing within nine months after the date of acquisition; (f) marketable direct obligations issued by any state of the United States of America or any political subdivision of any such state or any public instrumentality thereof having the highest ratings obtainable from Moody's or S&P and maturing within six months from the date of acquisition thereof; and (g) money market funds at least 95% of the assets of which constitute Cash Equivalents of the kinds described in clauses (a) through (f) of this definition.

"*Certificated Note*" means a certificated note in registered certificated form in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, in the form of Exhibit A hereto, except that such Note shall not bear the Global Note Legend and shall not have the "Schedule of Exchanges of Interests in the Global Note" attached thereto.

"*Change of Control*" means the occurrence of any of the following: (a) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Company and its Restricted Subsidiaries, taken as a whole, to any "person" (as that term is used in Section 13(d)(3) of the Exchange Act); (b) the adoption of a plan relating to the liquidation or dissolution of the Company; (c) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) becomes the ultimate Beneficial Owner, directly or indirectly, of 50% or more of the voting power of the Voting Stock of the Company; (d) the first day on which a majority of the members of the Board of Directors of the Company are not Continuing Directors; or (e) the Company consolidates with, or merges with or into, any Person, or any Person consolidates with, or merges with or into the Company, in any such event pursuant to a transaction in which any of the outstanding Voting Stock of the Company or such other Person is converted into or exchanged for cash, securities or other property, other than any such transaction where (i) the Voting Stock of the Company outstanding immediately prior to such transaction is converted into or exchanged for Voting Stock (other than Disqualified Stock) of the surviving or transferee Person constituting a majority of the outstanding shares of such Voting Stock of such surviving or transferee Person (immediately after giving effect to such issuance) and (ii) immediately after such transaction, no "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) becomes, directly or indirectly, the ultimate Beneficial Owner of 50% or more of the voting power of the Voting Stock of the surviving or transferee Person.

"*Consolidated Cash Flow*" means, with respect to any specified Person for any period, the Consolidated Net Income of such Person for such period *plus*, without duplication: (a) provision for taxes based on income or profits of such Person and its Restricted Subsidiaries for such period, to the extent that such provision for taxes was deducted in computing such Consolidated Net Income; *plus* (b) Fixed Charges of such Person and its Restricted Subsidiaries for such period, to the extent that any such Fixed Charges were deducted in computing such Consolidated Net Income; *plus* (c) depreciation, amortization (including amortization of goodwill and other intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period) and other non-cash expenses (excluding any special charges and additional restructuring charges referred to in clauses (d) and (e) without giving effect to the provisos, and any such non-cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period) of such Person and its Restricted Subsidiaries for such period to the extent that such depreciation, amortization and other non-cash expenses were deducted in computing such Consolidated Net Income; *plus* (d) special charges included on the face of the Company's consolidated statement of operations for its fiscal years ended September 30, 2002 and 2003 furnished to Holders as provided under Section 4.03 and, in the case of fiscal 2003, additional restructuring charges related to markdown monies included as a reduction of net sales, to the extent such special charges and additional restructuring charges were deducted in computing Consolidated Net Income for such period; *provided* that the maximum aggregate amount of such special charges and additional restructuring charges for the fiscal year ended September 30, 2003 shall not exceed $42.0 million; *plus* (e) special charges related to the acquisition of Remington incurred during any period after June 30, 2003, and prior to September 30, 2005, and included on the face of the Company's consolidated statement of operations furnished to Holders as provided under Section 4.03 to the extent such special charges were deducted in computing Consolidated Net Income for such period; *provided* that the maximum aggregate amount of such special charges shall not exceed $35.0 million; *minus* (f) non-cash items increasing such Consolidated Net Income for such period, other than the accrual of revenue consistent with past practice, in each case, on a consolidated basis and determined in accordance with GAAP.

Notwithstanding the preceding, the provision for taxes based on the income or profits of, and the depreciation and amortization and other non-cash expenses of, a Restricted Subsidiary of the Company shall be added to Consolidated Net Income to compute Consolidated Cash Flow of the Company (A) in the same proportion that the Net Income of such Restricted Subsidiary was added to compute such Consolidated Net Income of the Company and (B) only to the extent that a corresponding amount would be permitted at the date of determination to be dividended or distributed to the Company by such Restricted Subsidiary without prior governmental approval (that has not been obtained), and without direct or indirect restriction pursuant to the terms of its charter and all agreements, instruments, judgments, decrees, orders, statutes, rules and governmental regulations applicable to that Subsidiary or its stockholders.

"*Consolidated Net Income*" means, with respect to any specified Person for any period, the aggregate of the Net Income of such Person and its Subsidiaries for such period, on a consolidated basis, determined in accordance with GAAP; *provided* that:

(a) the Net Income (but not loss) of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting shall be included only to the extent of the amount of dividends or distributions paid in cash to the specified Person or a Restricted Subsidiary thereof;

(b) the Net Income of any Restricted Subsidiary shall be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that Net Income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its equityholders;

(c) the Net Income of any Person acquired during the specified period for any period prior to the date of such acquisition shall be excluded;

(d) the cumulative effect of a change in accounting principles shall be excluded; and

(e) notwithstanding clause (a) above, the Net Income (but not loss) of any Unrestricted Subsidiary shall be excluded, whether or not distributed to the specified Person or one of its Subsidiaries.

"*Consolidated Net Tangible Assets*" of any Person means, as of any date, the amount which, in accordance with GAAP, would be set forth under the caption "Total Assets" (or any like caption) on a consolidated balance sheet of such Person and its Restricted Subsidiaries, as of the end of the most recently ended fiscal quarter for which internal financial statements are available, less (a) all intangible assets, including, without limitation, goodwill, organization costs, patents, trademarks, copyrights, franchises, and research and development costs and (b) current liabilities.

"*Continuing Directors*" means, as of any date of determination, any member of the Board of Directors of the Company who (a) was a member of such Board of Directors on the date of this Indenture; or (b) was nominated for election or elected to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such Board at the time of such nomination or election.

"*Corporate Trust Office of the Trustee*" shall be at the address of the Trustee specified in Section 12.02 hereof or such other address as to which the Trustee may give notice to the Company.

"*Credit Agreement*" means that certain Credit Agreement, dated as of the date of this Indenture, by and among the Company, Goldman Sachs Credit Partners L.P., as Administrative Agent, and the lenders named therein and other financial institutions and other parties thereto, including any related notes, Guarantees, collateral documents, instruments and agreements executed in connection therewith, and in each case as amended, modified, renewed, refunded, replaced or refinanced from time to time, regardless of whether such amendment, modification, renewal, refunding, replacement or refinancing is with the same financial institutions or otherwise.

"Credit Facilities" means, one or more debt facilities (including, without limitation, the Credit Agreement) or commercial paper facilities, in each case with banks or other institutional lenders providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables) or letters of credit, in each case, as amended, restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time.

"*Custodian*" means the Trustee, as custodian with respect to the Notes in global form, or any successor entity thereto.

"*Default*" means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

"*Depositary*" means, with respect to the Notes issuable or issued in whole or in part in global form, the Person specified in Section 2.03 hereof as the Depositary with respect to the Notes, and any and all successors thereto appointed as depositary hereunder and having become such pursuant to the applicable provision of this Indenture.

"*Designated Senior Debt*" means:

(a) any Indebtedness outstanding under the Credit Agreement; and

(b) after payment in full of all Obligations under the Credit Agreement, any other Senior Debt permitted under this Indenture the principal amount of which is $50.0 million or more and that has been designated by the Company as "Designated Senior Debt."

"*Disqualified Stock*" means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case at the option of the holder thereof), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder thereof, in whole or in part, on or prior to the date that is one year after the date on which the Notes mature, except to the extent such Capital Stock is solely redeemable with, or solely exchangeable for, any Equity Interests of the Company that are not Disqualified Stock. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders thereof have the right to require the Company to repurchase such Capital Stock upon the occurrence of a change of control or an asset sale shall not constitute Disqualified Stock if the terms of such Capital Stock provide that the Company may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with Section 4.07. The term "Disqualified Stock" shall also include any options, warrants or other rights that are convertible into Disqualified Stock or that are redeemable at the option of the holder, or required to be redeemed, prior to the date that is one year after the date on which the Notes mature.

"*Domestic Subsidiary*" means any Restricted Subsidiary of the Company other than a Restricted Subsidiary that is (a) a "controlled foreign corporation" under Section 957 of the Internal Revenue Code or (b) a Subsidiary of any such controlled foreign corporation.

"*Equity Interests*" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

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

"Exchange Offer" means the exchange offer for the Notes, pursuant to the Offering Circular and Consent Solicitation Statement, dated March 16, 2007.

"*Existing Indebtedness*" means the aggregate principal amount of Indebtedness of the Company and its Subsidiaries (other than Indebtedness under the Credit Agreement) in existence on the date of the Existing Indenture after giving effect to the application of the proceeds of Indebtedness under the Credit Agreement borrowed on the date of the Existing Indenture, until such amounts are repaid.

"*Existing Indenture*" means the Indenture dated as of September 30, 2003, among the Company, the subsidiaries of the Company party thereto as guarantors and U.S. Bank National Association, as trustee, governing the Company's outstanding 8 1/2% Senior Subordinated Notes due 2013.

"*fair market value*" means the price that would be paid in an arm's-length transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy, as determined in good faith by the Board of Directors, whose determination shall be conclusive if evidenced by a resolution of the Board of Directors.

"*Fixed Charge Coverage Ratio*" means, with respect to any specified Person for any period, the ratio of the Consolidated Cash Flow of such Person for such period to the Fixed Charges of such Person for such period. In the event that the specified Person or any of its Subsidiaries incurs, assumes, Guarantees, repays, repurchases or redeems any Indebtedness or issues, repurchases or redeems preferred stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated and on or prior to the date on which the event for which the calculation of the Fixed Charge Coverage Ratio is made (the "*Calculation Date*"), then the Fixed Charge Coverage Ratio shall be calculated giving *pro forma* effect to such incurrence, assumption, Guarantee, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of preferred stock, and the use of the proceeds therefrom as if the same had occurred at the beginning of the applicable four-quarter reference period.

In addition, for purposes of calculating the Fixed Charge Coverage Ratio, acquisitions and dispositions of business entities or property and assets constituting a division or line of business of any Person that have been made by the specified Person or any of its Restricted Subsidiaries, including through mergers or consolidations and including any related financing transactions, during the four-quarter reference period or subsequent to such reference period and on or prior to the Calculation Date shall be given *pro forma* effect as if they had occurred on the first day of the four-quarter reference period and Consolidated Cash Flow for such reference period shall be calculated on a *pro forma* basis in accordance with Regulation S-X under the Securities Act, but without giving effect to clause (c) of the proviso set forth in the definition of Consolidated Net Income; (b) the Consolidated Cash Flow attributable to discontinued operations, as determined in accordance with GAAP, shall be excluded; (c) the Fixed Charges attributable to discontinued operations, as determined in accordance with GAAP shall be excluded, but only to the extent that the obligations giving rise to such Fixed Charges shall not be obligations of the specified Person or any of its Subsidiaries following the Calculation Date; and (d) consolidated interest expense attributable to interest on any Indebtedness (whether existing or being incurred) computed on a *pro forma* basis and bearing a floating interest rate shall be computed as if the rate in effect on the Calculation Date (taking into account any interest rate option, swap, cap or similar agreement applicable to such Indebtedness if such agreement has a remaining term in excess of 12 months or, if shorter, at least equal to the remaining term of such Indebtedness) had been the applicable rate for the entire period.

"*Fixed Charges*" means, with respect to any specified Person for any period, the sum, without duplication, of (a) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, including, without limitation, amortization of debt issuance costs and original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings, and net of the effect of all payments made, received or accrued in connection with Hedging Obligations; *plus* (b) the consolidated interest of such Person and its Restricted Subsidiaries that was capitalized during such period; *plus* (c) any interest expense on Indebtedness of another Person that is Guaranteed by such Person or one of its Restricted Subsidiaries or secured by a Lien on assets of such Person or one of its Restricted Subsidiaries, whether or not such Guarantee or Lien is called upon; *plus* (d) the product of (i) all dividends, whether paid or accrued and whether or not in cash, on any series of Disqualified Stock or preferred stock of such Person or any of its Restricted Subsidiaries, other than (A) dividends on Equity Interests payable solely in Equity Interests of the Company (other than Disqualified Stock) or (B) dividends to the Company or a Restricted Subsidiary of the Company, times (ii) a fraction, the numerator of which is one and the denominator of which is one minus the then current combined federal, state and local statutory tax rate of such Person, expressed as a decimal, in each case, on a consolidated basis and in accordance with GAAP; *provided* that Fixed Charges shall not include any interest expense of, or dividends paid by, VARTA to VARTA AG to the extent that the Company or a Restricted Subsidiary of the Company receives interest or dividends in cash from VARTA AG in connection with the VARTA Joint Venture Agreement as in effect on the date of this Indenture.

"*Foreign Subsidiary*" means any Restricted Subsidiary of the Company other than a Domestic Subsidiary.

"*GAAP*" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants, the opinions and pronouncements of the Public Company Accounting Oversight Board and in the statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect on the date of this Indenture.

"*Global Note Legend*" means the legend set forth in Section 2.06(f), which is required to be placed on all Global Notes issued under this Indenture.

"*Global Notes*" means a permanent global Note in the form of Exhibit A attached hereto that bears the Global Note Legend and that has the "Schedule of Exchanges of Interests in the Global Note" attached thereto, and that is deposited with or on behalf of and registered in the name of the Depositary.

"*Government Securities*" means direct obligations of, or obligations guaranteed by, the United States of America for the payment of which guarantee or obligations the full faith and credit of the United States is pledged.

"*Guarantee*" means, as to any Person, a guarantee other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness of another Person.

"*Guarantors*" means:

(a) each direct or indirect Domestic Subsidiary of the Company on the date of this Indenture; and

(b) any other subsidiary that executes a Note Guarantee in accordance with the provisions of this Indenture;

and their respective successors and assigns until released from their obligations under their Note Guarantees and this Indenture in accordance with the terms of this Indenture.

"*Hedging Obligations*" means, with respect to any specified Person, the obligations of such Person under (a) interest rate swap agreements, interest rate cap agreements, interest rate collar agreements and other agreements or arrangements designed for the purpose of fixing, hedging or swapping interest rate risk; (b) commodity swap agreements, commodity option agreements, forward contracts and other agreements or arrangements designed for the purpose of fixing, hedging or swapping commodity price risk; and (c) foreign exchange contracts, currency swap agreements and other agreements or arrangements designed for the purpose of fixing, hedging or swapping foreign currency exchange rate risk.

"*Holder*" means a Person in whose name a Note is registered.

"*incur*" means, with respect to any Indebtedness, to incur, create, issue, assume, Guarantee or otherwise become directly or indirectly liable for or with respect to, or become responsible for, the payment of, contingently or otherwise, such Indebtedness; *provided* that (a) any Indebtedness of a Person existing at the time such Person becomes a Restricted Subsidiary of the Company shall be deemed to be incurred by such Restricted Subsidiary at the time it becomes a Restricted Subsidiary of the Company; and (b) neither the accrual of interest nor the accretion of original issue discount nor the payment of interest in the form of additional Indebtedness with the same terms and the payment of dividends on Disqualified Stock in the form of additional shares of the same class of Disqualified Stock (to the extent provided for when the Indebtedness or Disqualified Stock on which such interest or dividend is paid was originally issued) shall be considered an incurrence of Indebtedness; *provided* that in each case the amount thereof is for all other purposes included in the Fixed Charges and Indebtedness of the Company or its Restricted Subsidiary as accrued.

"*Indebtedness*" means, with respect to any, specified Person, any indebtedness of such Person, whether or not contingent:

(a) in respect of borrowed money;

(b) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof), but excluding obligations with respect to letters of credit (including trade letters of credit) securing obligations entered into in the ordinary course of business of such Person to the extent such letters of credit are not drawn upon or, if drawn upon, to the extent such drawing is reimbursed no later than the fifth Business Day following receipt by such Person of a demand for reimbursement);

(c) in respect of banker's acceptances;

(d) in respect of Capital Lease Obligations and Attributable Debt;

(e) in respect of the balance deferred and unpaid of the purchase price of any property, except any such balance that constitutes an accrued expense or trade payable;

(f) representing Hedging Obligations, other than Hedging Obligations that are incurred in the ordinary course of business for the purpose of fixing, hedging or swapping interest rate, commodity price or foreign currency exchange rate risk (or to reverse or amend any such agreements previously made for such purposes), and not for speculative purposes, and that do not increase the Indebtedness of the obligor outstanding at any time other than as a result of fluctuations in interest rates, commodity prices or foreign currency exchange rates or by reason of fees, indemnities and compensation payable thereunder; or

(g) representing Disqualified Stock valued at the greater of its voluntary or involuntary maximum fixed repurchase price plus accrued dividends;

if and to the extent that any of the preceding items (other than Hedging Obligations) would appear as liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term "Indebtedness" includes (x) all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person), *provided* that the amount of such Indebtedness shall be the lesser of (A) the fair market value of such asset at such date of determination and (B) the amount of such Indebtedness, and (y) to the extent not otherwise included, the Guarantee by the specified Person of any Indebtedness of any other Person. For purposes hereof, the "maximum fixed repurchase price" of any Disqualified Stock which does not have a fixed repurchase price shall be calculated in accordance with the terms of such Disqualified Stock as if such Disqualified Stock were purchased on any date on which Indebtedness shall be required to be determined pursuant to this Indenture, and if such price is based upon, or measured by, the fair market value of such Disqualified Stock, such fair market value shall be determined in good faith by the Board of Directors of the issuer of such Disqualified Stock.

The amount of any Indebtedness outstanding as of any date shall be the outstanding balance at such date of all unconditional obligations as described above and, with respect to contingent obligations, the maximum liability upon the occurrence of the contingency giving rise to the obligation, and shall be:

(A) the accreted value thereof, in the case of any Indebtedness issued with original issue discount; and

(B) the principal amount thereof, together with any interest thereon that is more than 30 days past due, in the case of any other Indebtedness;

provided that Indebtedness shall not include:

(1) any liability for federal, state, local or other taxes;

(2) performance, surety or appeal bonds provided in the ordinary course of business; or

(3) agreements providing for indemnification, adjustment of purchase price or similar obligations, or Guarantees or letters of credit, surety bonds or performance bonds securing any obligations of the Company or any of its Restricted Subsidiaries pursuant to such agreements, in any case incurred in connection with the disposition of any business, assets or Restricted Subsidiary (other than Guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or Restricted Subsidiary for the purpose of financing such acquisition), so long as the principal amount does not exceed the gross proceeds actually received by the Company or any Restricted Subsidiary in connection with such disposition.

"*Indenture*" means this Indenture, as amended or supplemented from time to time.

"*Indirect Participant*" means a Person who holds a beneficial interest in a Global Note through a Participant.

"*Interest Payment Date*" means April 2 and October 2 of each year to Stated Maturity.

"Interest Period" means the period commencing on and including an Interest Payment Date and ending on and including the day immediately preceding the next succeeding Interest Payment Date.

"*Investments*" means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans or other extensions of credit (including Guarantees, but excluding advances to customers or suppliers in the ordinary course of business that are, in conformity with GAAP, recorded as accounts receivable, prepaid expenses or deposits on the balance sheet of the Company or its Restricted Subsidiaries and endorsements for collection or deposit arising in the ordinary course of business), advances (excluding commission, travel, payroll and similar advances to officers and employees made consistent with past practices), capital contributions (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP.

If the Company or any Restricted Subsidiary of the Company sells or otherwise disposes of any Equity Interests of any direct or indirect Restricted Subsidiary of the Company such that, after giving effect to any such sale or disposition, such Person is no longer a Restricted Subsidiary of the Company, the Company shall be deemed to have made an Investment on the date of any such sale or disposition equal to the fair market value of the Investment in such Restricted Subsidiary not sold or disposed of in an amount determined as provided in Section 4.07. The acquisition by the Company or any Restricted Subsidiary of the Company of a Person that holds an Investment in a third Person shall be deemed to be an Investment by the Company or such Restricted Subsidiary in such third Person only if such Investment was made in contemplation of, or in connection with, the acquisition of such Person by the Company or such Restricted Subsidiary and the amount of any such Investment shall be determined as provided in the final paragraph of Section 4.07.

"*Legal Holiday*" means a Saturday, a Sunday or a day on which commercial banks in The City of New York or at a place of payment are authorized or required by law, regulation or executive order to remain closed. If a payment date is a Legal Holiday at a place of payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest on such payment shall accrue for the intervening period.

"*Lien*" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction.

"Market Disruption Event" means the occurrence or existence for more than one continuous half hour period in the aggregate on any scheduled Trading Day for the Company's common stock of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the New York Stock Exchange or otherwise) in the Company's common stock or in any options, contracts or future contracts relating to such common stock, and such suspension or limitation occurs or exists at any time before 1:00 p.m. (New York City time) on such day.

"*Maturity*" means, with respect to any Indebtedness, the date on which any principal of such Indebtedness becomes due and payable as therein or herein provided, whether at the Stated Maturity with respect to such principal or by declaration of acceleration, call for redemption or purchase or otherwise.

"Minimum Equity Condition" means (i) for Interest Periods commencing on April 2, 2007, October 2, 2007, April 2, 2008 and October 2, 2008, the closing price of the common stock of the Company as reported on the New York Stock Exchange for each of the 10 consecutive Trading Days prior to the applicable Interest Election Date shall be greater than $3.00, (ii) for Interest Periods commencing on April 2, 2009 and October 2, 2009, the closing price of the common stock of the Company as reported on the New York Stock Exchange for each of the 10 consecutive Trading Days prior to the applicable Interest Election Date shall be greater than $4.00, and (iii) for the Interest Period commencing on April 2, 2010, the closing price of the common stock of the Company as reported on the New York Stock Exchange for each of the 10 consecutive Trading Days prior to the applicable Interest Election Date shall be greater than $5.00. The closing prices in each case shall be adjusted proportionately upward or downward after the date of initial issuance of the Notes to reflect any stock split, stock dividend or recapitalization which shall increase or decrease the number of shares of Company common stock issued and outstanding.

"*Moody's*" means Moody's Investors Service, Inc. or any successor to the rating agency business thereof.

"*Net Income*" means, with respect to any specified Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends, excluding, however, (a) any gain or loss, together with any related provision for taxes on such gain or loss, realized in connection with (i) any sale of assets outside the ordinary course of business of such Person; or (ii) the disposition of any securities by such Person or any of its Restricted Subsidiaries or the extinguishment of any Indebtedness of such Person or any of its Restricted Subsidiaries; and (b) any extraordinary gain or loss, together with any related provision for taxes on such extraordinary gain or loss.

"*Net Proceeds*" means the aggregate cash proceeds, including payments in respect of deferred payment obligations (to the extent corresponding to the principal, but not the interest component, thereof) received by the Company or any of its Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), net of (a) the direct costs relating to such Asset Sale, including, without limitation, legal, accounting and investment banking fees, and sales commissions, and any relocation expenses incurred as a result thereof; (b) taxes paid or payable as a result thereof, in each case, after taking into account any available tax credits or deductions arising therefrom and any tax sharing arrangements in connection therewith; (c) amounts required to be applied to the repayment of Indebtedness or other liabilities, secured by a Lien on the asset or assets that were the subject of such Asset Sale, or required to be paid as a result of such sale; and (d) any reserve for adjustment in respect of the sale price of such asset or assets established in accordance with GAAP.

"*Note Guarantee*" means the Guarantee by each Guarantor of the Company's payment obligations under this Indenture and on the Notes, executed pursuant to this Indenture.

"*Notes*" means the Variable Rate Toggle Senior Subordinated Notes due 2013 of the Company issued pursuant to the Exchange Offer and any Additional Notes. The Notes and any Additional Notes shall be treated as a single class for all purposes under this Indenture.

"Notice of Election" means a written notice of election of the Form of Interest Payment for any Interest Period in substantially the form attached as Exhibit B hereto.

"*Obligations*" means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

"*Officer*" means, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary or any Vice-President of such Person.

"*Officers' Certificate*" means a certificate signed on behalf of the Company by two Officers of the Company, one of whom must be the principal executive officer, the principal financial officer, the treasurer, or the principal accounting officer of the Company, that meets the requirements of Section 12.05 hereof.

"*Opinion of Counsel*" means an opinion from legal counsel that meets the requirements of Section 12.05 hereof. The counsel may be an employee of or counsel to the Company, any subsidiary of the Company or the Trustee.

"*Participant*" means, with respect to the Depositary, Euroclear or Clearstream, a Person who has an account with the Depositary, Euroclear or Clearstream, respectively (and, with respect to The Depository Trust Company, shall include Euroclear and Clearstream).

"*Permitted Business*" means any business conducted or proposed to be conducted by the Company and its Restricted Subsidiaries on the date of this Indenture and other businesses similar or reasonably related, ancillary or incidental thereto or reasonable extensions thereof.

"*Permitted Investments*" means:

(a) any Investment in the Company or in a Restricted Subsidiary of the Company;

(b) any Investment in Cash Equivalents;

(c) any Investment by the Company or any Restricted Subsidiary of the Company in a Person, if as a result of such Investment:

(i) such Person becomes a Restricted Subsidiary of the Company; or

(ii) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Company or a Restricted Subsidiary of the Company;

(d) any Investment made as a result of the receipt of non-cash consideration from an Asset Sale that was made pursuant to and in compliance with Section 4.10;

(e) Investments to the extent acquired in exchange for the issuance of Equity Interests (other than Disqualified Stock) of the Company;

(f) Hedging Obligations that are incurred in the ordinary course of business for the purpose of fixing, hedging or swapping interest rate, commodity price or foreign currency exchange rate risk (or to reverse or amend any such agreements previously made for such purposes), and not for speculative purposes, and that do not increase the Indebtedness of the obligor outstanding at any time other than as a result of fluctuations in interest rates, commodity prices or foreign currency exchange rates or by reason of fees, indemnities and compensation payable thereunder;

(g) stock, obligations or securities received in satisfaction of judgments;

(h) Investments in securities of trade debtors or customers received pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of such trade creditors or customers or in good faith settlement of delinquent obligations of such trade debtors or customers or in compromise or resolution of litigation, arbitration or other disputes with Persons who are not Affiliates; and

(i) other Investments in any Person that is not an Affiliate of the Company (other than a Restricted Subsidiary) having an aggregate fair market value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (i) since the date of the Existing Indenture, not to exceed $15.0 million.

"*Permitted Junior Securities*" means (a) Equity Interests in the Company or any Guarantor or any other business entity provided for by a plan of reorganization; and (b) debt securities of the Company or any Guarantor or any other business entity provided for by a plan of reorganization that are subordinated to the payment of all Senior Debt and any debt securities issued in exchange for Senior Debt to substantially the same extent as, or to a greater extent than, the Notes and the Note Guarantees are subordinated to Senior Debt under this Indenture.

"*Permitted Liens*" means:

(a) Liens on the assets of the Company and any Guarantor securing Senior Debt that was permitted by the terms of this Indenture to be incurred;

(b) Liens in favor of the Company or any Restricted Subsidiary;

(c) Liens on property of a Person existing at the time such Person is merged with or into or consolidated with the Company or any Restricted Subsidiary of the Company; *provided* that such Liens were in existence prior to the contemplation of such merger or consolidation and do not extend to any assets other than those of the Person merged into or consolidated with the Company or the Restricted Subsidiary;

(d) Liens on property existing at the time of acquisition thereof by the Company or any Restricted Subsidiary of the Company, *provided* that such Liens were in existence prior to the contemplation of such acquisition and do not extend to any property other than the property so acquired by the Company or the Restricted Subsidiary;

(e) Liens existing on the date of this Indenture; *provided*, *however*, that Liens existing prior to the date of this Indenture that continue in effect shall have been permitted under the Existing Indenture; and

(f) Liens incurred in the ordinary course of business of the Company or any Restricted Subsidiary of the Company with respect to obligations that do not exceed $5.0 million at any one time outstanding.

"*Permitted Refinancing Indebtedness*" means any Indebtedness of the Company or any of its Restricted Subsidiaries issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, defease or refund other Indebtedness of the Company or any of its Restricted Subsidiaries (other than intercompany Indebtedness); *provided* that:

(a) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so extended, refinanced, renewed, replaced, defeased or refunded (plus all accrued interest thereon and the amount of any reasonably determined premium necessary to accomplish such refinancing and such reasonable expenses incurred in connection therewith);

(b) such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded;

(c) if the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded is subordinated in right of payment to the Notes or the Note Guarantees, such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and is subordinated in right of payment to, the Notes on terms at least as favorable to the Holders of Notes as those contained in the documentation governing the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded;

(d) if the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded is *pari passu* in right of payment with the Notes or any Note Guarantees, such Permitted Refinancing Indebtedness is *pari passu* with, or subordinated in right of payment to, the Notes or such Note Guarantees; and

(e) such Indebtedness is incurred either by the Company or by the Restricted Subsidiary who is the obligor on the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded.

"*Person*" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.

"*preferred stock*" means, with respect to any Person, any Capital Stock of such Person that has preferential rights to any other Capital Stock of such Person with respect to dividends or redemption upon liquidation.

"*Record Date*" for the interest payable on any Interest Payment Date means March 15 or September 15 (whether or not a Business Day), as the case may be, next preceding such Interest Payment Date.

"*Remington*" means Remington Products Company, L.L.C.

"*Replacement Assets*" means (a) non-current assets that shall be used or useful in a Permitted Business or (b) all or substantially all of the assets of a Permitted Business or a majority of the Voting Stock of any Person engaged in a Permitted Business that shall become on the date of acquisition thereof a Restricted Subsidiary of the Company.

"*Representative*" means the Trustee, agent or representative for any Senior Debt.

"*Responsible Officer*" when used with respect to the Trustee, means any officer within the Corporate Trust Administration of the Trustee (or any successor group of the Trustee) or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

"*Restricted Investment*" means an Investment other than a Permitted Investment.

"*Restricted Subsidiary*" of a Person means any Subsidiary of the referent Person that is not an Unrestricted Subsidiary.

"*S&P*" means Standard and Poor's Rating Services or any successor to the rating agency business thereof and its successors.

"*SEC*" means the Securities and Exchange Commission.

"*Securities Act*" means the Securities Act of 1933, as amended.

"*Senior Debt*" means:

(a) all Indebtedness of the Company or any Guarantor outstanding under Credit Facilities and all Hedging Obligations with respect thereto;

(b) any other Indebtedness of the Company or any Guarantor permitted to be incurred under the terms of this Indenture, unless the instrument under which such Indebtedness is incurred expressly provides that it is on a parity with or subordinated in right of payment to the Notes or any Note Guarantee; and

(c) all Obligations with respect to the items listed in the preceding clauses (a) and (b).

Notwithstanding anything to the contrary in the preceding paragraph, Senior Debt shall not include:

(i) any liability for federal, state, local or other taxes owed or owing by the Company or any Guarantor;

(ii) any Indebtedness of the Company or any Guarantor to any of their Subsidiaries or other Affiliates;

(iii) any trade payables;

(iv) the portion of any Indebtedness that is incurred in violation of this Indenture;

(v) any Indebtedness of the Company or any Guarantor that, when incurred, was without recourse to the Company or such Guarantor;

(vi) any repurchase, redemption or other obligation in respect of Disqualified Stock;

(vii) the Company's 7 3/8% Senior Subordinated Notes due 2015; or

(viii) the Company's 8 1/2% Senior Subordinated Notes due 2013.

"*Significant Subsidiary*" means any Subsidiary that would constitute a "significant subsidiary" within the meaning of Article 1 of Regulation S-X of the Securities Act.

"*Stated Maturity*" means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which such payment of interest or principal was scheduled to be paid in the original documentation governing such Indebtedness, and shall not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

"*Subsidiary*" means, with respect to any specified Person: (a) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and any partnership (i) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (ii) the only general partners of which are such Person or one or more Subsidiaries of such Person (or any combination thereof).

"*TIA*" means the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbbb) as in effect on the date on which this Indenture is qualified under the TIA.

"Trading Day" means any day on which (i) there is no Market Disruption Event and (ii) the New York Stock Exchange is open for trading, or, if the Company's common stock is not listed on the New York Stock Exchange, any day on which the principal national securities exchange on which the Company's common stock is listed is open for trading, or, if the Company's common stock is not listed on a national securities exchange, any Business Day. A "Trading Day" only includes those days that have a scheduled closing time of 4:00 p.m. (New York City time) or the then standard closing time for regular trading on the relevant exchange or trading system.

"*Trustee*" means the party named as such in the preamble to this Indenture until a successor replaces it in accordance with this Indenture and thereafter means the successor serving hereunder.

"*Unrestricted Subsidiary*" means any Subsidiary of the Company that is designated by the Board of Directors of the Company as an Unrestricted Subsidiary pursuant to a resolution of the Board of Directors in compliance with Section 4.16 and any Subsidiary of such Subsidiary.

"*U.S. Person*" means a U.S. person as defined in Rule 902(o) under the Securities Act.

"*VARTA*" means Varta Geratebatterie GmbH and its successors or assignees.

"*VARTA Joint Venture Agreement*" means the agreement among VARTA AG, the Company and ROV German Limited GmbH dated July 28, 2002, as amended.

"*Voting Stock*" of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

"*Weighted Average Life to Maturity*" means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that shall elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness.

"*Wholly Owned Restricted Subsidiary*" of any specified Person means a Restricted Subsidiary of such Person all of the outstanding Capital Stock or other ownership interests of which (other than directors' qualifying shares or Investments by foreign nationals mandated by applicable law) shall at the time be owned by such Person or by one or more Wholly Owned Restricted Subsidiaries of such Person and one or more Wholly Owned Restricted Subsidiaries of such Person.

Section 1.02 Other Definitions.

Term	Defined in Section
"Affiliate Transaction"	4.11
"Asset Sale Offer"	4.10
"Authentication Order"	2.02
"Cash Interest"	Exhibit A
"Change of Control Offer"	4.14
"Change of Control Payment Date"	4.14
"Company"	Preamble
"Covenant Defeasance"	8.03
"CPDI Regulations"	2.17
"Event of Default"	6.01
"Excess Proceeds"	4.10
"Fixed Charge Coverage Ratio Test"	4.01
"Form of Interest Payment"	Exhibit A
"Issue Date"	Exhibit A
"Legal Defeasance"	8.02
"Offer Amount"	3.09
"Offer Period"	3.09
"Paying Agent"	2.03
"Payment Blockage Notice"	10.03
"Permitted Debt"	4.09(b)
"PIK Interest"	Exhibit A
"PIK Payment"	Exhibit A
"Purchase Date"	3.09
"Registrar"	2.03
"Repurchase Offer"	3.09
"Restricted Payments"	4.07
"Scheduled Rate"	Exhibit A

Section 1.03 Incorporation by Reference of Trust Indenture Act. The mandatory provisions of the TIA that are required to be a part of and govern indentures qualified under the TIA are incorporated by reference in and are a part of this Indenture, whether or not this Indenture is so qualified. Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture.

The following TIA terms used in this Indenture have the following meanings:

"*indenture securities*" means the Notes;

"*indenture security Holder*" means a Holder of a Note;

"*indenture to be qualified*" means this Indenture;

"*indenture trustee*" or "*institutional trustee*" means the Trustee; and

"*obligor*" on the Notes means the Company and any successor obligor upon the Notes.

All other terms used in this Indenture that are defined by the TIA, defined by TIA reference to another statute or defined by SEC rule under the TIA have the meanings so assigned to them.

Section 1.04 Rules of Construction. Unless the context otherwise requires:

(a) a term has the meaning assigned to it;

(b) "or" is not exclusive;

(c) "including" or "include" means including or include without limitation;

(d) words in the singular include the plural and words in the plural include the singular;

(e) the words "herein," "hereof" and "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section, clause or other subdivision;

(f) "$," "U.S. Dollars" and "United States Dollars" each refer to United States dollars, or such other money of the United States that at the time of payment is legal tender for payment of public and private debts;

(g) provisions apply to successive events and transactions;

(h) references to sections of or rules under the Securities Act shall be deemed to include substitute, replacement or successor sections or rules adopted by the SEC from time to time;

(i) unless the context otherwise requires, any reference to an "Article" or a "Section" refers to an Article or a Section, as the case may be, of this Indenture; and

(j) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP.

ARTICLE II

THE NOTES

Section 2.01 Form and Dating. (a) *General*. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage. Each Note shall be dated the date of its authentication. The Company will issue Notes in registered, global form and in denominations of $1.00 and integral multiples of $1.00 in excess thereof.

The terms and provisions contained in the Notes shall constitute, and are hereby expressly made, a part of this Indenture and the Company, the Guarantors and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with this Indenture, this Indenture shall govern and be controlling. Notwithstanding anything herein to the contrary, the Company's 7 3/8% Senior Subordinated Notes due 2015 and the Company's 8 1/2% Senior Subordinated Notes due 2013 shall be *pari passu* in right of payment with the Notes.

(b) *Global Notes*. Notes issued in global form shall be substantially in the form of Exhibit A attached hereto (including the Global Note Legend thereon and the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Notes issued in definitive form shall be substantially in the form of Exhibit A attached hereto (but without the Global Note Legend thereon and without the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Each Global Note shall represent such of the outstanding Notes as shall be specified therein and each shall provide that it shall represent the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby shall be made by the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 hereof.

Section 2.02 Execution and Authentication. One Officer shall sign the Notes for the Company by manual or facsimile signature.

If an Officer whose signature is on a Note no longer holds that office at the time a Note is authenticated, the Note shall nevertheless be valid.

A Note shall not be valid until authenticated by the manual signature of the Trustee. The signature shall be conclusive evidence that the Note has been authenticated under this Indenture.

The aggregate principal amount of Notes which may be authenticated and delivered under this Indenture is $350.0 million plus any additional principal amount of Notes which may be issued in connection with any PIK Payment.

The Trustee shall, upon a written order of the Company signed by one Officer (an "*Authentication Order*"), authenticate Notes for original issue up to the aggregate principal amount authorized pursuant to this Indenture.

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with Holders or an Affiliate of the Company.

Section 2.03 Registrar and Paying Agent. The Company shall maintain an office or agency where Notes may be presented for registration of transfer or for exchange ("*Registrar*") and an office or agency where Notes may be presented for payment ("*Paying Agent*"). The Registrar shall keep a register of the Notes and of their transfer and exchange. The Company may appoint one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar and the term "Paying Agent" includes any additional paying agent. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company shall promptly notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Company fails to appoint or maintain another entity as Registrar or Paying Agent, the Trustee shall act as such. The Company or any of its Subsidiaries may act as Paying Agent or Registrar.

The Company initially appoints The Depository Trust Company to act as Depositary with respect to the Global Notes.

The Company initially appoints the Trustee to act as the Registrar and Paying Agent and to act as Custodian with respect to the Global Notes.

Section 2.04 Paying Agent to Hold Money in Trust. The Company shall require each Paying Agent other than the Trustee to agree in writing that the Paying Agent shall hold in trust for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of principal, premium, if any, or interest on the Notes, and shall notify the Trustee of any default by the Company in making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Company or a Subsidiary thereof) shall have no further liability for the money. If the Company or a Subsidiary thereof acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Company, the Trustee shall serve as Paying Agent for the Notes.

Section 2.05 Holder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders and shall otherwise comply with TIA § 312(a). If the Trustee is not the Registrar, the Company shall furnish to the Trustee at least seven Business Days before each Interest Payment Date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders of Notes and the Company shall otherwise comply with TIA § 312(a).

Section 2.06 Transfer and Exchange. (a) *Transfer and Exchange of Global Notes*. A Global Note may not be transferred as a whole except by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to the Depositary or to another nominee of the Depositary, by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. All Global Notes shall be exchanged by the Company for Certificated Notes if (i) the Company delivers to the Trustee notice from the Depositary that it is unwilling or unable to continue to act as Depositary or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depositary is not appointed by the Company within 120 days after the date of such notice from the Depositary or (ii) the Company in its sole discretion determines that the Global Notes (in whole but not in part) should be exchanged for Certificated Notes and delivers a written notice to such effect to the Trustee; or (iii) there shall have occurred and be continuing a Default or Event of Default with respect to the Notes. Upon the occurrence of any of the preceding events in (i), (ii) or (iii) above, Certificated Notes shall be issued in such names as the Depositary shall instruct the Trustee. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07, 2.10 and 2.11 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07, 2.10 or 2.11 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 2.06.

(b) *Transfer and Exchange of Beneficial Interests in the Global Notes*. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depositary, in accordance with this Indenture and the Applicable Procedures. Transfers of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(i) *Transfer of Beneficial Interests in the Same Global Note*. Beneficial interests in any Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in a Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(i).

(ii) *All Other Transfers and Exchanges of Beneficial Interests in Global Notes*. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(i) above, the transferor of such beneficial interest shall deliver to the Registrar either (A) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in the Global Note in an amount equal to the beneficial interest to be transferred or exchanged and instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase or (B) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Certificated Note in an amount equal to the beneficial interest to be transferred or exchanged and instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Certificated Note shall be registered to effect the transfer or exchange referred to in (A) above. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(g) hereof.

(c) *Transfer or Exchange of Beneficial Interests for Certificated Notes*. If any Holder of a beneficial interest in a Global Note proposes to exchange such beneficial interest for a Certificated Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Certificated Note, then, upon satisfaction of the conditions set forth in Section 2.06(b)(ii) hereof, the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(g) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Certificated Note in the appropriate principal amount. Any Certificated Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c) shall be registered in such name or names and in such authorized denomination or denominations as the Holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Certificated Notes to the Persons in whose names such Notes are so registered.

(d) *Transfer and Exchange of Certificated Notes for Beneficial Interests*. A Holder of a Certificated Note may exchange such Note for a beneficial interest in a Global Note or transfer such Certificated Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Certificated Note and increase or cause to be increased the aggregate principal amount of one of the Global Notes pursuant to Section 2.06(g). If any such exchange or transfer from a Certificated Note to a beneficial interest is effected at a time when a Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Global Notes in an aggregate principal amount equal to the principal amount of Certificated Notes so transferred.

(e) *Transfer and Exchange of Certificated Notes for Certificated Notes*. A Holder of Certificated Notes may transfer such Notes to a Person who takes delivery thereof in the form of a Certificated Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Certificated Notes pursuant to the instructions from the Holder thereof. Prior to such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the Certificated Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by his attorney, duly authorized in writing.

(f) *Global Note Legend*. Each Global Note shall bear a legend in substantially the following form:

"THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.12 OF THE INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY."

(g) *Cancellation and/or Adjustment of Global Notes*. At such time as all beneficial interests in a particular Global Note have been exchanged for Certificated Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.12 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who shall take delivery thereof in the form of a beneficial interest in another Global Note or for Certificated Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who shall take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(h) *General Provisions Relating to Transfers and Exchanges*. (i) To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Global Notes and Certificated Notes upon the Company's order or at the Registrar's request.

(ii) No service charge shall be made to a holder of a beneficial interest in a Global Note or to a Holder of a Certificated Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.11, 3.06, 3.09, 4.10, 4.14 and 9.05 hereof).

(iii) The Registrar shall not be required to register the transfer of or exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(iv) All Global Notes and Certificated Notes issued upon any registration of transfer or exchange of Global Notes or Certificated Notes shall be the valid and legally binding obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Notes or Certificated Notes surrendered upon such registration of transfer or exchange.

(v) The Company shall not be required (A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption under Section 3.02 hereof and ending at the close of business on the day of selection, (B) to register the transfer of or to exchange any Note so selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part or (C) to register the transfer of or to exchange a Note between a record date and the next succeeding Interest Payment Date.

(vi) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary.

(vii) The Trustee shall authenticate Global Notes and Certificated Notes in accordance with Section 2.02 hereof.

(viii) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06 to effect a registration of transfer or exchange may be submitted by facsimile.

Section 2.07 Replacement Notes. If any mutilated Note is surrendered to the Trustee or the Company and the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Note, the Company shall issue and the Trustee, upon receipt of an Authentication Order, shall authenticate a replacement Note if the Trustee's requirements are met. If required by the Trustee or the Company, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Company to protect the Company, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Note is replaced. The Company may charge for its expenses in replacing a Note.

Every replacement Note issued pursuant to this Section 2.07 is an additional obligation of the Company and shall be entitled to all of the benefits of this Indenture equally and proportionately with all other Notes duly issued hereunder.

Section 2.08 Outstanding Notes. The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with this Indenture, and those described in this Section as not outstanding. Except as set forth in Section 2.09 hereof, a Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note; however, Notes held by the Company or a Subsidiary of the Company shall not be deemed to be outstanding for purposes of Section 3.07(b) hereof.

If a Note is replaced pursuant to Section 2.07 hereof, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a bona fide purchaser or protected purchaser.

If the principal amount of any Note is considered paid under Section 4.01 hereof, it ceases to be outstanding and interest on it ceases to accrue.

If the Paying Agent (other than the Company, a Subsidiary or an Affiliate of any of the foregoing) holds, on a redemption date or maturity date, money sufficient to pay Notes payable on that date in full, then on and after that date such Notes shall be deemed to be no longer outstanding and shall cease to accrue interest.

Section 2.09 Treasury Notes. In determining whether the Holders of the required principal amount of the Notes have concurred in any direction, waiver or consent, Notes owned by the Company, any direct or indirect Subsidiary of the Company or any Affiliate of the Company shall be considered as though not outstanding, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes that the Trustee knows are so owned shall be so disregarded. Notes so owned which have been pledged in good faith shall not be disregarded if the pledgee establishes to the satisfaction of the Trustee the pledgee's right to deliver any such direction, waiver or consent with respect to the Notes and that the pledgee is not the Company or any obligor upon the Notes or any Affiliate of the Company or of such other obligor.

Section 2.10 Certificated Notes. (a) A Global Note deposited with the Depositary or other custodian for the Depositary pursuant to Section 2.01 shall be transferred to the beneficial owners thereof in the form of certificated Notes only if such transfer complies with Section 2.06 and (i) the Depositary notifies the Company that it is unwilling or unable to continue as the Depositary for such Global Note, or if at any time the Depositary ceases to be a "clearing agency" registered under the Exchange Act and a successor depositary is not appointed by the Company within 90 days of the earlier of such notice or the Company becoming aware of such cessation, or (ii) the Company, at its option, executes and delivers to the Trustee a notice that such Global Note be so transferable, registrable and exchangeable, or (iii) a Default or an Event of Default has occurred and is continuing with respect to the Notes and the Registrar has received a request for such transfer from either the Depositary or a Person with a beneficial interest in such Notes or (iv) the issuance of such certificated Notes is necessary in order for a Holder or beneficial owner to present its Note or Notes to a Paying Agent in order to avoid any tax that is imposed on or with respect to a payment made to such Holder or beneficial owner and the Holder or beneficial owner (through the Depositary) so certifies to the Company and the Trustee. Notice of any such transfer shall be given by the Company in accordance with the provisions of Section 12.02.

(b) Any Global Note that is transferable to the beneficial owners thereof in the form of certificated Notes pursuant to this Section 2.10 shall be surrendered by the Depositary to the Transfer Agent, to be so transferred, in whole or from time to time in part, without charge, and the Trustee shall authenticate and deliver, upon such transfer of each portion of such Global Note, an equal aggregate principal amount of Notes of authorized denominations in the form of certificated Notes.

(c) In connection with the exchange of an entire Global Note for certificated Notes pursuant to this Section 2.10, such Global Note shall be deemed to be surrendered to the Trustee for cancellation, and the Company shall execute, and the Trustee shall authenticate and deliver, to each beneficial owner identified by the Depositary in exchange for its beneficial interest in such Global Note, an equal aggregate principal amount of certificated Notes. In the event that such certificated Notes are not issued to each beneficial owner promptly after the Registrar has received a request from the Depositary or (through the Depositary) a beneficial owner to issue such certificated Notes, the Company expressly acknowledges, with respect to the right of any Holder to pursue a remedy pursuant to Article VI hereof, the right of any beneficial owner of Notes to pursue such remedy with respect to the portion of the Global Note that represents such beneficial owner's Notes as if such certificated Notes had been issued.

(d) Any portion of a Global Note transferred or exchanged pursuant to this Section 2.10 shall be executed, authenticated and delivered only in registered form in denominations of $1.00 and any integral multiple thereof and registered in such names as the Depositary shall direct. Subject to the foregoing, a Global Note is not exchangeable except for a Global Note of like denomination to be registered in the name of the Depositary or its nominee. In the event that a Global Note becomes exchangeable for certificated Notes, payment of principal, premium, if any, and interest on the certificated Notes will be payable, and the transfer of the certificated Notes will be registrable, at the office or agency of the Company maintained for such purposes in accordance with Section 2.03.

(e) In the event of the occurrence of any of the events specified in Section 2.10(a), the Company will promptly make available to the Trustee a reasonable supply of certificated Notes in definitive, fully registered form without interest coupons.

Section 2.11 Temporary Notes. Until certificates representing Notes are ready for delivery, the Company may prepare and the Trustee, upon receipt of an Authentication Order, shall authenticate temporary Notes. Temporary Notes shall be substantially in the form of certificated Notes but may have variations that the Company considers appropriate for temporary Notes and as shall be reasonably acceptable to the Trustee. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate definitive Notes in exchange for temporary Notes. Holders of temporary Notes shall be entitled to all of the benefits of this Indenture.

Section 2.12 Cancellation. The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and shall dispose of such canceled Notes in its customary manner (subject to record retention requirements of the Exchange Act). Subject to Section 2.07, the Company may not issue new Notes to replace Notes that it has paid or that have been delivered to the Trustee for cancellation.

Section 2.13 Defaulted Interest. If the Company defaults in a payment of interest on the Notes, it shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, to the Persons who are Holders on a subsequent special record date, in each case at the rate provided in the Notes and in Section 4.01 hereof. The Company shall notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Note and the date of the proposed payment. The Company shall fix or cause to be fixed each such special record date and payment date, *provided* that no such special record date shall be less than 10 days prior to the related payment date for such defaulted interest. At least 15 days before the special record date, the Company (or, upon the written request of the Company, the Trustee in the name and at the expense of the Company) shall mail or cause to be mailed to Holders a notice that states the special record date, the related payment date and the amount of such interest to be paid.

Section 2.14 CUSIP and ISIN Numbers. The Company in issuing the Notes may use “CUSIP” and “ISIN” numbers (if then generally in use, and, if so, the Trustee shall use “CUSIP” and “ISIN” numbers in notices of redemption as a convenience to Holders; *provided* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice of redemption and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption shall not be affected by any defect in or omission of such numbers). The Company shall promptly notify the Trustee of any change in the “CUSIP” or “ISIN” numbers.

Section 2.15 Deposit of Moneys. By or before 12:00 p.m. (noon) Eastern Time on each due date of the principal, premium, if any, and interest on any Notes, the Company shall deposit with the Paying Agent money in immediately available funds sufficient to pay such principal, premium, if any, and interest so becoming due on the due date for payment under the Notes and (unless the Paying Agent is the Trustee) the Company will promptly notify the Trustee of its action or failure so to act.

Section 2.16 Computation of Interest. Interest on the Notes shall be computed on the basis of a 360-day year of twelve 30-day months.

Section 2.17 Characterization of Notes for U.S. Federal Income Tax Purposes. The Company shall agree and, by acceptance of the Notes pursuant to the Exchange Offer, each Holder shall be deemed to agree, to (in the absence of an administrative determination or judicial ruling to the contrary), treat the Notes for U.S. federal income tax purposes as indebtedness that is subject to the Treasury regulations governing contingent payment debt instruments (the "*CPDI Regulations*"), and to be bound by the Company's application of the CPDI Regulations to the Notes.

ARTICLE III

REDEMPTION AND PREPAYMENT

Section 3.01 Notices to Trustee. If the Company elects to redeem Notes pursuant to Section 3.07 hereof, it shall furnish to the Trustee, at least 30 days but not more than 60 days before a redemption date, an Officers' Certificate setting forth (a) the clause of this Indenture pursuant to which the redemption shall occur, (b) the redemption date, (c) the principal amount of Notes to be redeemed and (d) the redemption price.

Section 3.02 Selection of Notes to Be Redeemed. If less than all of the Notes are to be redeemed at any time, selection of Notes for redemption shall be made by the Trustee in compliance with the requirements of the principal national securities exchange, if any, on which the Notes are listed, or, if the Notes are not so listed, on a *pro rata* basis, by lot or by such method as the Trustee shall deem fair and appropriate. In the event of partial redemption by lot, the particular Notes to be redeemed shall be selected, unless otherwise provided herein, not less than 30 nor more than 60 days prior to the redemption date by the Trustee from the outstanding Notes not previously called for redemption.

The Trustee shall promptly notify the Company in writing of the Notes selected for redemption and, in the case of any Note selected for partial redemption, the principal amount thereof to be redeemed. Except as provided in the preceding sentence, the provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption.

Section 3.03 Notice of Redemption. Subject to Section 3.09 hereof, at least 30 days but not more than 60 days before a redemption date, the Company shall mail or cause to be mailed, by first class mail, a notice of redemption to each Holder whose Notes are to be redeemed at its registered address.

The notice shall identify the Notes to be redeemed and shall state:

(a) the redemption date;

(b) the redemption price;

(c) if any Note is being redeemed in part, the portion of the principal amount of such Note to be redeemed and that, after the redemption date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion of the original Note shall be issued in the name of the Holder thereof upon cancellation of the original Note;

(d) the name and address of the Paying Agent;

(e) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price and become due on the date fixed for redemption;

(f) that, unless the Company defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the redemption date;

(g) the paragraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed; and

(h) that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Notes.

At the Company's request, the Trustee shall give the notice of redemption in the Company's name and at its expense; *provided*, *however*, that the Company shall have delivered to the Trustee, at least 45 days prior to the redemption date, an Officers' Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph. The notice, if mailed in the manner provided herein shall be presumed to have been given, whether or not the Holder receives such notice.

Section 3.04 Effect of Notice of Redemption. Once notice of redemption is mailed in accordance with Section 3.03 hereof, Notes called for redemption become irrevocably due and payable on the redemption date at the redemption price. A notice of redemption may not be conditional.

Section 3.05 Deposit of Redemption Price. Not later than one Business Day prior to the redemption date, the Company shall deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption price of and accrued and unpaid interest on all Notes to be redeemed on that date. The Trustee or the Paying Agent shall promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the redemption price of, and accrued and unpaid interest on, all Notes to be redeemed.

If the Company complies with the preceding paragraph of this Section 3.05, on and after the redemption date, interest shall cease to accrue on the Notes or the portions of Notes called for redemption. If a Note is redeemed on or after a record date but on or prior to the related Interest Payment Date, then any accrued and unpaid interest shall be paid to the Person in whose name such Note was registered at the close of business on such record date. If any Note called for redemption shall not be so paid upon surrender for redemption because of the failure of the Company to comply with the preceding paragraph, interest shall accrue on the unpaid principal, from the redemption date until such principal is paid, and to the extent permitted by applicable law on any interest accrued through the date of redemption but not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 4.01 hereof.

Section 3.06 Notes Redeemed in Part. Upon surrender of a Note that is redeemed in part, the Company shall issue and, upon the Company's written request, the Trustee shall authenticate for the Holder at the expense of the Company a new Note equal in principal amount to the unredeemed portion of the Note surrendered.

Section 3.07 Optional Redemption.

(a) At any time on or prior to September 30, 2007, the Company may redeem all or a part of the Notes, from time to time, upon not less than 30 nor more than 60 days notice, at the redemption price (expressed as a percentage of principal amount) of 110% plus accrued and unpaid interest, if any, to the applicable redemption date.

(b) In addition, at any time after September 30, 2007, the Company may redeem all or a part of the Notes, from time to time, upon not less than 30 nor more than 60 days notice, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest, if any, to the applicable redemption date, if redeemed during the twelve-month period beginning on October 1 of the years indicated below:

Year	Percentage
2007	109%
2008	102%
2009	101%
2010 and thereafter	100%

(c) Any redemption pursuant to this Section 3.07 shall be made pursuant to Section 3.01 through 3.06 hereof.

Section 3.08 Mandatory Redemption. The Company is not required to make mandatory redemption or sinking fund payments with respect to the Notes.

Section 3.09 Offer to Purchase. In the event that, pursuant to Sections 4.10 and 4.14 hereof, the Company shall be required to commence an offer to all Holders to purchase Notes (a "*Repurchase Offer*"), it shall follow the procedures specified below.

The Repurchase Offer shall remain open for a period of 20 Business Days following its commencement and no longer, except to the extent that a longer period is required by applicable law (the "*Offer Period*"). No later than five Business Days after the termination of the Offer Period (the "*Purchase Date*"), the Company shall purchase the principal amount of Notes required to be purchased pursuant to Section 4.10 or 4.14 hereof (the "*Offer Amount*") or, if less than the Offer Amount has been tendered, all Notes tendered in response to the Repurchase Offer. Payment for any Notes so purchased shall be made in the same manner as Cash Interest payments are made.

If the Purchase Date is on or after an interest Record Date and on or before the related Interest Payment Date, any accrued and unpaid interest shall be paid to the Person in whose name a Note is registered at the close of business on such Record Date, and no additional interest shall be payable to Holders who tender Notes pursuant to the Repurchase Offer.

Upon the commencement of a Repurchase Offer, the Company shall send, by first class mail, a notice to the Trustee and each of the Holders, with a copy to the Trustee. The notice shall contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Repurchase Offer. The Repurchase Offer shall be made to all Holders. The notice, which shall govern the terms of the Repurchase Offer, shall state:

(a) that the Repurchase Offer is being made pursuant to this Section 3.09 and Section 4.10 or 4.14 hereof and the length of time the Repurchase Offer shall remain open;

(b) the Offer Amount, the purchase price and the Purchase Date;

(c) that any Note not tendered or accepted for payment shall continue to accrue interest;

(d) that, unless the Company defaults in making such payment, any Note accepted for payment pursuant to the Repurchase Offer shall cease to accrue interest on and after the Purchase Date;

(e) that Holders electing to have a Note purchased pursuant to a Repurchase Offer may only elect to have all of such Note purchased or a portion of such Note in denominations of $1.00 or an integral multiple thereof;

(f) that Holders electing to have a Note purchased pursuant to any Repurchase Offer shall be required to surrender the Note, with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Note completed, or transfer by book-entry transfer, to the Company, the Depositary, if appointed by the Company, or a Paying Agent at the address specified in the notice at least three Business Days before the Purchase Date;

(g) that Holders shall be entitled to withdraw their election if the Company, the Depositary or the Paying Agent, as the case may be, receives, not later than the expiration of the Offer Period, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have such Note purchased;

(h) that, if the aggregate principal amount of Notes surrendered by Holders exceeds the Offer Amount required pursuant to Section 4.10, the Company shall select the Notes to be purchased pursuant to the terms of Section 3.02 (with such adjustments as may be deemed appropriate by the Trustee so that only Notes in denominations of not less than $1.00 shall be purchased); and

(i) that Holders whose Notes were purchased only in part shall be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered (or transferred by book-entry transfer); *provided* that such new Notes will be in a principal amount of $1.00 or an integral multiple thereof.

On or before the Purchase Date, the Company shall, to the extent lawful, accept for payment, on a *pro rata* basis to the extent necessary, the Offer Amount of Notes or portions thereof tendered pursuant to the Repurchase Offer; or if less than the Offer Amount has been tendered, all Notes tendered, and shall deliver to the Trustee an Officers' Certificate stating that such Notes or portions thereof were accepted for payment by the Company in accordance with the terms of this Section 3.09. The Company, the Depositary or the Paying Agent, as the case may be, shall promptly (but in any case not later than five days after the Purchase Date) mail or deliver to each tendering Holder an amount equal to the purchase price of the Notes tendered by such Holder and accepted by the Company for purchase, and the Company shall promptly issue a new Note, and the Trustee, upon written request from the Company shall authenticate and mail or deliver such new Note to such Holder, in a principal amount equal to any unpurchased portion of the Note surrendered; *provided* that such new Note will be in a principal amount of $1.00 or an integral multiple thereof. Any Note not so accepted shall be promptly mailed or delivered by the Company to the Holder thereof. The Company shall publicly announce the results of the Repurchase Offer on the Purchase Date.

Other than as specifically provided in this Section 3.09, any purchase pursuant to this Section 3.09 shall be made pursuant to Sections 3.01 through 3.06 hereof.

ARTICLE IV

COVENANTS

Section 4.01 Payment of Notes. The Company shall pay or cause to be paid the principal of, premium, if any, and interest on the Notes on the dates and in the manner provided in the Notes and in this Indenture. Principal, premium, if any, and Cash Interest shall be considered paid on the date due if the Paying Agent, if a Person other than the Company, a Subsidiary or affiliate thereof, holds as of 12:00 p.m. (noon) Eastern Time on the due date money deposited by the Company in immediately available funds and designated for and sufficient, to pay all principal, premium, if any, and accrued and unpaid interest then due. PIK Interest shall be considered paid on the due date if the Company had previously delivered a valid Notice of Election for PIK Interest for the corresponding Interest Period and any applicable Additional Notes have been issued.

If on any Interest Election Date, the Exchange Act filings for the Company's most recently completed fiscal quarter to which such filings relate demonstrate that the Fixed Charge Coverage Ratio for the Company's most recently ended four full fiscal quarters ending on such fiscal quarter is above 2.0 to 1.0 (the "*Fixed Charge Coverage Ratio Test*"), the Company shall notify the Trustee on such Interest Election Date and the applicable interest rate shall be 1% per annum in excess of the Scheduled Rate for the next Interest Period. In addition, the Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to 1% per annum in excess of the then applicable interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace period) at the same rate to the extent lawful.

Section 4.02 Maintenance of Office or Agency. The Company shall maintain an office or agency (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) where Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required, office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

The Company may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; *provided, however*, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency for such purposes. The Company shall give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

The Company hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Company in accordance with Section 2.03.

Section 4.03 Reports. (a) Whether or not required by the SEC, so long as any Notes are outstanding, the Company shall prepare and furnish to the Holders of Notes with a copy to the Trustee, within the time periods specified in the SEC's rules and regulations, (i) all quarterly and annual financial information that would be required to be contained in a filing with the SEC on Forms 10-Q and 10-K if the Company were required to file such Forms, including a "Management's Discussion and Analysis of Financial Condition and Results of Operations" and, with respect to the annual information only, a report on the annual financial statements by the Company's certified independent accountants; and (ii) all current reports that would be required to be filed with the SEC on Form 8-K if the Company were required to file such reports. In addition, whether or not required by the SEC, the Company shall file a copy of all of the information and reports referred to in clauses (i) and (ii) above with the SEC for public availability within the time periods specified in the SEC's rules and regulations (unless the SEC shall not accept such a filing) and make such information available to securities analysts and prospective investors upon request. In addition, the Company and the Guarantors have agreed that, for so long as any Notes remain outstanding, they shall furnish to the Holders and to prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

(b) If the Company has designated any of its Subsidiaries as Unrestricted Subsidiaries, then the quarterly and annual financial information required by paragraph (a) above shall include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in "Management's Discussion and Analysis of Financial Condition and Results of Operations," of the financial condition and results of operations of the Company and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company.

Section 4.04 Compliance Certificate. (a) The Company and each Guarantor (to the extent that such Guarantor is so required under the TIA) shall deliver to the Trustee, within 90 days after the end of each fiscal year, an Officers' Certificate stating that, to his or her knowledge the Company has kept, observed, performed and fulfilled its obligations under this Indenture and is not in default in the performance or observance of any of the, terms, provisions and conditions of this Indenture (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Company is taking or proposes to take with respect thereto) and that to his or her knowledge no event has occurred and is continuing by reason of which payments on account of the principal of or interest, if any, on the Notes is prohibited or if such event has occurred, a description of the event and what action the Company is taking or proposes to take with respect thereto. The Company may deliver an Officer's Certificate on behalf of any Guarantor.

(b) So long as not contrary to the then current recommendations of the American Institute of Certified Public Accountants, the year-end financial statements delivered pursuant to Section 4.03(a) above shall be accompanied by a written statement of the Company's independent public accountants (who shall be a firm of established national reputation) that in making the examination necessary for certification of such financial statements, nothing has come to their attention that would lead them to believe that the Company has violated Article IV or Article V hereof or, if any such violation has occurred, specifying the nature and period of existence thereof, it being understood that such accountants shall not be liable directly or indirectly to any Person for any failure to obtain knowledge of any such violation.

(c) The Company shall, so long as any of the Notes are outstanding, deliver to the Trustee, forthwith, but in no event later than five Business Days, upon any Officer becoming aware of any Default or Event of Default, an Officers' Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

Section 4.05 Taxes. The Company, shall pay, and shall cause each of its Subsidiaries to pay, prior to delinquency, all material taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders of the Notes.

Section 4.06 Stay, Extension and Usury Laws. Each of the Company and the Guarantors covenants (to the extent that it is permitted by applicable law) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the obligations of the Company and each of the Guarantors and the performance of this Indenture by the Company and each of the Guarantors; and each of the Company and the Guarantors (to the extent that it is permitted by applicable law) hereby expressly waives all benefit or advantage of any such law, and covenants that it shall not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law has been enacted.

Section 4.07 Restricted Payments.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly:

(i) declare or pay any dividend or make any other payment or distribution on account of the Company's or any of its Restricted Subsidiaries' Equity Interests (including, without limitation, any payment in connection with any merger or consolidation involving the Company or any of its Restricted Subsidiaries) or to the direct or indirect holders of the Company's or any of its Restricted Subsidiaries' Equity Interests in their capacity as such (other than dividends, payments or distributions payable in Equity Interests (other than Disqualified Stock) of the Company or to the Company or a Restricted Subsidiary);

(ii) purchase, redeem or otherwise acquire or retire for value (including, without limitation, in connection with any merger or consolidation involving the Company) any Equity Interests of the Company or any Restricted Subsidiary of the Company held by Persons other than the Company or any of its Restricted Subsidiaries, other than the purchase, redemption or acquisition or retirement for value all of the Equity Interests in VARTA not held by the Company or any of its Restricted Subsidiaries pursuant to, and in accordance with the terms of, the VARTA Joint Venture Agreement as in effect on the date of this Indenture to the extent the cash purchase price does not exceed €1.0 million;

(iii) make any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness that is subordinated to the Notes or the Note Guarantees, except a payment of interest or principal on or after the Stated Maturity thereof; or

(iv) make any Restricted Investment (all such payments and other actions set forth in clauses (i) through (iv) above being collectively referred to as "*Restricted Payments*"),

unless, at the time of and after giving effect to such Restricted Payment:

(A) no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof; and

(B) the Company would, at the time of such Restricted Payment and after giving *pro forma* effect thereto as if such Restricted Payment had been made at the beginning of the applicable four-quarter period, have been permitted to incur at least $1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.09; and

(C) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Company and its Restricted Subsidiaries after the date of this Indenture (excluding Restricted Payments permitted by clauses (ii), (iii) (iv) (to the extent such dividends are paid to the Company or any of its Restricted Subsidiaries) and (v) of Section 4.07(b)), is less than the sum, without duplication, of:

(1) 50% of the Consolidated Net Income of the Company for the period (taken as one accounting period) from the beginning of the first fiscal quarter commencing from September 30, 2003 to the end of the Company's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment (or, if such Consolidated Net Income for such period is a deficit, less 100% of such deficit); *plus*

(2) 100% of the aggregate net cash proceeds received by the Company since September 30, 2003 as a contribution to its common equity capital or from the issue or sale of Equity Interests of the Company (other than Disqualified Stock) or from the issue or sale of convertible or exchangeable Disqualified Stock or convertible or exchangeable debt securities of the Company that have been converted into or exchanged for such Equity Interests (other than Equity Interests (or Disqualified Stock or debt securities) sold to a Subsidiary of the Company); *plus*

(3) with respect to Restricted Investments made by the Company and its Restricted Subsidiaries after the date of this Indenture, an amount equal to the net reduction in Investments (other than reductions in Permitted Investments) in any Person resulting from repayments of loans or advances, or other transfers of assets, in each case to the Company or any Restricted Subsidiary or from the net cash proceeds from the sale of any such Investment (except, in each case, to the extent any such payment or proceeds are included in the calculation of Consolidated Net Income, from the release of any Guarantee (except to the extent any amounts are paid under such Guarantee) or from redesignations of Unrestricted Subsidiaries as Restricted Subsidiaries, not to exceed, in each case, the amount of Investments previously made by the Company or any Restricted Subsidiary in such Person or Unrestricted Subsidiary; *plus*

(4) $20.0 million.

(b) So long as no Default has occurred and is continuing or would be caused thereby, the preceding clauses of this Section 4.07 shall not prohibit:

(i) the payment of any dividend within 60 days after the date of declaration thereof, if at said date of declaration such payment would have complied with this Indenture;

(ii) the redemption, repurchase, retirement, defeasance or other acquisition of any subordinated Indebtedness of the Company or any Guarantor or of any Equity Interests of the Company or any Guarantor in exchange for, or out of the net cash proceeds of a contribution to the common equity of the Company or a substantially concurrent sale (other than to a Subsidiary of the Company) of Equity Interests of the Company (other than Disqualified Stock); *provided* that the amount of any such net cash proceeds that are utilized for any such redemption, repurchase, retirement, defeasance or other acquisition shall be excluded from clause (C)(2) of Section 4.07(a);

(iii) the defeasance, redemption, repurchase or other acquisition of subordinated Indebtedness of the Company or any Guarantor with the net cash proceeds from an incurrence of Permitted Refinancing Indebtedness;

(iv) the payment of any dividend by a Restricted Subsidiary of the Company to the holders of its common Equity Interests on a *pro rata* basis;

(v) Investments acquired as a capital contribution to, or in exchange for, or out of the net cash proceeds of a substantially concurrent offering of, Equity Interests (other than Disqualified Stock) of the Company; *provided* that the amount of any such net cash proceeds that are utilized for any such acquisition or exchange shall be excluded from clause (C)(2) of Section 4.07(a);

(vi) the repurchase of Capital Stock deemed to occur upon the exercise of options or warrants if such Capital Stock represents all or a portion of the exercise price thereof;

(vii) the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of the Company held by any employee, former employee, director or former director of the Company (or any of its Restricted Subsidiaries) upon the death, disability or termination of employment of any of the foregoing pursuant to the terms of any employee equity subscription agreement, stock option agreement or similar agreement; *provided* that the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests in any fiscal year shall not exceed the sum of (x) $3.0 million and (y) the amount of Restricted Payments permitted but not made pursuant to this clause (vii) in the immediately preceding fiscal year; or

(viii) the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of any Restricted Subsidiary of the Company from the minority stockholders (or other holders of minority interest, however designated) of such Restricted Subsidiary, for fair market value; *provided* that the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests shall not exceed $15.0 million.

The amount of all Restricted Payments (other than cash) shall be the fair market value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued to or by the Company or such Subsidiary, as the case may be, pursuant to the Restricted Payment. The fair market value of any assets or securities that are required to be valued pursuant to this Section 4.07 shall be determined by the Board of Directors of the Company whose resolution with respect thereto shall be delivered to the Trustee. Not later than the date of making any Restricted Payment, the Company shall deliver to the Trustee an Officers' Certificate stating that such Restricted Payment is permitted and setting forth the basis upon which the calculations required by this Section 4.07 were computed, together with a copy of any fairness opinion or appraisal required by this Indenture.

Section 4.08 Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries. The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:

(a) pay dividends or make any other distributions on its Capital Stock (or with respect to any other interest or participation in, or measured by, its profits) to the Company or any of its Restricted Subsidiaries or pay any liabilities owed to the Company or any of its Restricted Subsidiaries;

(b) make loans or advances to the Company or any of its Restricted Subsidiaries; or

(c) transfer any of its properties or assets to the Company or any of its Restricted Subsidiaries.

However, the preceding restrictions shall not apply to encumbrances or restrictions existing under, by reason of, or with respect to:

(i) the Credit Agreement, Existing Indebtedness or any other agreements in effect on the date of the Existing Indenture and any amendments, modifications, restatements, renewals, extensions, supplements, refundings, replacements or refinancings thereof, *provided* that the encumbrances and restrictions in any such amendments, modifications, restatements, renewals, extensions, supplements, refundings, replacement or refinancings are no more restrictive, taken as a whole, than those in effect on the date of the Existing Indenture;

(ii) applicable law, rule, regulation or order;

(iii) any Person or the property or assets of a Person acquired by the Company or any of its Restricted Subsidiaries existing at the time of such acquisition and not incurred in connection with or in contemplation of such acquisition, which encumbrance or restriction is not applicable to any Person or the properties or assets of any Person, other than the Person, or the property or assets of such Person, so acquired and any amendments, modifications, restatements, renewals, extensions, supplements, refundings, replacements or refinancings thereof, *provided* that the encumbrances and restrictions in any such amendments, modifications, restatements, renewals, extensions, supplements, refundings, replacement or refinancings are no more restrictive, taken as a whole, than those contained in the Credit Agreement, Existing Indebtedness or such other agreements as in effect on the date of the acquisition;

(iv) in the case of clause (c) of the first paragraph of this Section 4.08:

(A) provisions that restrict in a customary manner the subletting, assignment or transfer of any property or asset that is a lease, license, conveyance or contract or similar property or asset,

(B) restrictions existing by virtue of any transfer of, agreement to transfer, option or right with respect to, or Lien on, any property or assets of the Company or any Restricted Subsidiary not otherwise prohibited by this Indenture, or

(C) restrictions arising or agreed to in the ordinary course of business, not relating to any Indebtedness, and that do not, individually or in the aggregate, detract from the value of property or assets of the Company or any Restricted Subsidiary in any manner material to the Company or any Restricted Subsidiary;

(v) provisions with respect to the disposition or distribution of assets or property in joint venture agreements and other similar agreements entered into in the ordinary course of business;

(vi) any agreement for the sale or other disposition of all or substantially all of the capital stock of, or property and assets of, a Restricted Subsidiary that restricts distributions by that Restricted Subsidiary pending such sale or other disposition; and

(vii) Indebtedness of a Foreign Subsidiary permitted to be incurred under this Indenture; *provided* that (A) such encumbrances or restrictions are ordinary and customary with respect to the type of Indebtedness being incurred and (B) such encumbrances or restrictions will not affect the Company's ability to make principal and interest payments on the Notes, as determined in good faith by the Board of Directors of the Company.

Section 4.09 Incurrence of Indebtedness and Issuance of Preferred Stock.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, incur any Indebtedness (including Acquired Debt), and the Company shall not permit any of its Restricted Subsidiaries to issue any preferred stock; *provided*, *however*, that the Company or any Guarantor of the Company may incur Indebtedness, if the Fixed Charge Coverage Ratio for the Company's most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred would have been at least 2.0 to 1, determined on a *pro forma* basis (including a *pro forma* application of the net proceeds therefrom), as if the additional Indebtedness had been incurred at the beginning of such four quarter period.

(b) So long as no Default shall have occurred and be continuing or would be caused thereby, Section 4.09(a) shall not prohibit the incurrence of any of the following items of Indebtedness (collectively, "*Permitted Debt*"):

(i) the incurrence by (A) the Company or any Foreign Subsidiary of the Company of Indebtedness under Credit Facilities (and the incurrence by the Guarantors of Guarantees thereof) in an aggregate principal amount at any one time outstanding, without duplication, pursuant to this clause (i) (with letters of credit being deemed to have a principal amount equal to the maximum potential liability of the Company and its Restricted Subsidiaries thereunder) not to exceed $1.6 billion, less the aggregate amount of all Net Proceeds of Asset Sales applied by the Company or any Restricted Subsidiary to permanently repay any such Indebtedness (and, in the case of any revolving credit Indebtedness, to effect a corresponding commitment reduction thereunder) pursuant to Section 4.10 *provided*, that the aggregate principal amount of Indebtedness of all Foreign Subsidiaries of the Company incurred pursuant to this clause (i) shall not exceed €60.0 million and (B) Foreign Subsidiaries of Guarantees of other Foreign Subsidiaries' Indebtedness under Credit Facilities;

(ii) the incurrence of Existing Indebtedness;

(iii) the incurrence by the Company and the Guarantors of Indebtedness represented by the Notes (including any Notes issued as PIK Interest) and the related Note Guarantees to be issued on the date of this Indenture;

(iv) the incurrence by the Company or any Guarantor of Indebtedness represented by Capital Lease Obligations, mortgage financings or purchase money obligations, in each case, incurred for the purpose of financing all or any part of the purchase price or cost of construction or improvement of property, plant or equipment used in the business of the Company or such Guarantor, in an aggregate principal amount, including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (iv), not to exceed $30.0 million at any time outstanding;

(v) the incurrence by the Company or any Restricted Subsidiary of the Company of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to refund, refinance or replace Indebtedness (other than intercompany Indebtedness) that was permitted by this Indenture to be incurred under Section 4.09(a) or clauses (ii) (other than Indebtedness incurred in connection with the acquisition of Remington), (iii), (iv), (v), or (viii) of this Section 4.09(b);

(vi) the incurrence by the Company or any of its Restricted Subsidiaries of intercompany Indebtedness owing to and held by the Company or any of its Restricted Subsidiaries; *provided, however*, that:

(x) if the Company or any Guarantor is the obligor on such Indebtedness, such Indebtedness must be unsecured and expressly subordinated to the prior payment in full in cash of all Obligations with respect to the Notes, in the case of the Company, or the Note Guarantee, in the case of a Guarantor;

(y) Indebtedness owed to the Company or any Guarantor must be evidenced by an unsubordinated promissory note, unless the obligor under such Indebtedness is the Company or a Guarantor; and

(z) (A) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary thereof and (B) any sale or other transfer of any such Indebtedness to a Person that is not either the Company or a Restricted Subsidiary thereof, shall be deemed, in each case, to constitute an incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (vi);

(vii) the Guarantee by the Company or any Guarantors of Indebtedness of the Company or a Restricted Subsidiary of the Company that was permitted to be incurred by another provision of this Section 4.09;

(viii) the incurrence by the Company or any Guarantor of additional Indebtedness in an aggregate principal amount (or accreted value, as applicable) at any time outstanding, including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (viii), not to exceed $50.0 million;

(ix) the incurrence of Indebtedness by the Company or, any Restricted Subsidiary of the Company arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently (except in the case of daylight overdrafts) drawn against insufficient funds in the ordinary course of business; *provided* that such Indebtedness is extinguished within five Business Days of incurrence; and

(x) the incurrence of Indebtedness by a Foreign Subsidiary in an aggregate principal amount for all Foreign Subsidiaries at any one time outstanding pursuant to this clause (x) not to exceed 10% of Consolidated Net Tangible Assets of the Company; *provided* that after giving effect to the incurrence of any such Indebtedness, the Company would be permitted to incur at least $1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.09(a).

(c) For purposes of determining compliance with this Section 4.09, in the event that any proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (i) through (x) of Section 4.09(b) above, or is entitled to be incurred pursuant to Section 4.09(a), the Company shall be permitted to classify at the time of its incurrence such item of Indebtedness in any manner that complies with this Section 4.09. Indebtedness under Credit Facilities outstanding on the date on which Notes are first issued under this Indenture shall be deemed to have been incurred on such date in reliance on the exception provided by clause (i) of Section 4.09(b). In addition, any Indebtedness originally classified as incurred pursuant to clauses (i) through (x) of Section 4.09(b) may later be reclassified by the Company such that it shall be deemed as having been incurred pursuant to another of such clauses to the extent that such reclassified Indebtedness could be incurred pursuant to such new clause at the time of such reclassification.

(d) Notwithstanding any other provision of this Section 4.09, (a) the maximum amount of Indebtedness that may be incurred pursuant to this Section 4.09 shall not be deemed to be exceeded, with respect to any outstanding Indebtedness due solely to the result of fluctuations in the exchange rates of currencies and (b) Indebtedness incurred under any letters of credit (the amount of such Indebtedness being deemed to have a principal amount equal to the maximum potential liability of the Company and its Restricted Subsidiaries thereunder), including letters of credit under the Credit Agreement, that were outstanding on the date of this Indenture or were first issued thereafter at a time when no Default had occurred and was continuing shall be permitted to be incurred in reliance on the exception provided by clause (viii) of the definition of Permitted Debt to the extent the aggregate principal amount of such Indebtedness at any time outstanding does not exceed $50.0 million.

Section 4.10 Asset Sales. (a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, consummate an Asset Sale unless:

(i) the Company (or the Restricted Subsidiary, as the case may be) receives consideration at the time of such Asset Sale at least equal to the fair market value of the assets or Equity Interests issued or sold or otherwise disposed of;

(ii) such fair market value is determined by the Company's Board of Directors and evidenced by a resolution of the Board of Directors set forth in an Officers' Certificate delivered to the Trustee; and

(iii) at least 75% of the consideration therefor received by the Company or such Restricted Subsidiary is in the form of cash or Replacement Assets or a combination of both. For purposes of this clause, each of the following shall be deemed to be cash:

(A) any liabilities (as shown on the Company's, or such Restricted Subsidiary's most recent balance sheet), of the Company or any Restricted Subsidiary (other than contingent liabilities, Indebtedness that is by its terms subordinated to the Notes or any Note Guarantee and liabilities to the extent owed to the Company or any Affiliate of the Company) that are assumed by the transferee of any such assets pursuant to a written novation agreement that releases the Company or such Restricted Subsidiary from further liability; and

(B) any securities, notes or other obligations received by the Company or any such Restricted Subsidiary from such transferee that are converted by the Company or such Restricted Subsidiary into cash (to the extent of the cash received in that conversion) within 90 days of the applicable Asset Sale.

(b) Within 360 days after the receipt of any Net Proceeds from an Asset Sale, the Company may apply such Net Proceeds at its option:

(i) to repay Senior Debt and, if the Senior Debt repaid is revolving credit Indebtedness, to correspondingly reduce commitments with respect thereto; or

(ii) to purchase Replacement Assets or make a capital expenditure in or that is used or useful in a Permitted Business.

Pending the final application of any such Net Proceeds, the Company may temporarily reduce revolving credit borrowings or otherwise invest such Net Proceeds in any manner that is not prohibited by this Indenture.

(c) Any Net Proceeds from Asset Sales that are not applied or invested as provided in the preceding paragraph shall constitute "*Excess Proceeds*." Within 10 days after the aggregate amount of Excess Proceeds exceeds $10.0 million, the Company shall make an offer (an "*Asset Sale Offer*") to all Holders of Notes and all holders of other Indebtedness that is *pari passu* with the Notes or any Note Guarantee containing provisions similar to those set forth in this Indenture with respect to offers to purchase with the proceeds of sales of assets, to purchase the maximum principal amount of Notes and such other *pari passu* Indebtedness that may be purchased out of the Excess Proceeds. The offer price in any Asset Sale Offer shall be equal to 100% of the principal amount of the Notes and such other *pari passu* Indebtedness plus accrued and unpaid interest to the date of purchase, and shall be payable in cash. If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Company may use such Excess Proceeds for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount of Notes and such other *pari passu* Indebtedness tendered into such Asset Sale Offer exceeds the amount of Excess Proceeds, the Trustee will select the Notes and the agent for such other *pari passu* Indebtedness will select such other *pari passu* Indebtedness to be purchased on a *pro rata* basis (with such adjustments for authorized denominations) based on the principal amount of Notes and such other *pari passu* Indebtedness tendered. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds shall be reset at zero.

(d) Any Asset Sale Offer shall be made in accordance with Section 3.09. The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with each repurchase of Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with this Section 4.10 or Section 3.09, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Section 4.10 or Section 3.09 by virtue of such compliance.

Section 4.11 Transactions with Affiliates. (a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into, make, amend, renew or extend any transaction, contract, agreement, understanding, loan, advance or Guarantee with, or for the benefit of, any Affiliate (each, an "Affiliate Transaction"), unless:

(i) such Affiliate Transaction is on terms that are no less favorable to the Company or the relevant Restricted Subsidiary than those that would have been obtained in a comparable arm's-length transaction by the Company or such Restricted Subsidiary with a Person that is not an Affiliate of the Company; and

(ii) the Company delivers to the Trustee:

(A) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $5.0 million, a resolution of the Board of Directors of the Company set forth in an Officers' Certificate certifying that such Affiliate Transaction or series of related Affiliate Transactions complies with this Section 4.11 and that such Affiliate Transaction or series of related Affiliate Transactions has been approved by a majority of the disinterested members of the Board of Directors of the Company; and

(B) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $15.0 million, an opinion as to the fairness to the Company or such Restricted Subsidiary of such Affiliate Transaction or series of related Affiliate Transactions from a financial point of view issued by an independent accounting, appraisal or investment banking firm of national standing.

(b) The following items shall not be deemed to be Affiliate Transactions and, therefore, shall not be subject to Section 4.11(a):

(i) transactions between or among the Company and/or its Restricted Subsidiaries;

(ii) payment of reasonable and customary fees and compensation to, and reasonable and customary indemnification arrangements and similar payments on behalf of, directors of the Company;

(iii) Restricted Payments that are permitted by the Existing Indenture;

(iv) any sale of Capital Stock (other than Disqualified Stock) of the Company;

(v) loans and advances to officers and employees of the Company or any of its Restricted Subsidiaries for bona fide business purposes in the ordinary course of business consistent with past practice;

(vi) any employment, consulting, service or termination agreement, or reasonable and customary indemnification arrangements, entered into by the Company or any of its Restricted Subsidiaries, with officers and employees of the Company or any of its Restricted Subsidiaries and the payment of compensation to officers and employees of the Company or any of its Restricted Subsidiaries (including amounts paid pursuant to employee benefit plans, employee stock option or similar plans), in each case in the ordinary course of business and consistent with past practice; and

(vii) any agreements or arrangements in effect on the date of this Indenture, or any amendment, modification, or supplement thereto or any replacement thereof, as long as such agreement or arrangement, as so amended, modified, supplemented or replaced, taken as a whole, is not more disadvantageous to the Company and its Restricted Subsidiaries than the original agreement as in effect on the date of the Existing Indenture, as determined in good faith by the Company's Board of Directors, and any transactions contemplated by any of the foregoing agreements or arrangements.

Section 4.12 Liens. The Company shall not, and shall not permit any of its Restricted Subsidiaries to, create, incur, assume or otherwise cause or suffer to exist or become effective any Lien of any kind securing Indebtedness (other than Permitted Liens) upon any of their property or assets, now owned or hereafter acquired, unless all payments due under this Indenture and the Notes are secured on an equal and ratable basis with the obligations so secured until such time as such obligations are no longer secured by a Lien.

Section 4.13 Corporate Existence. Subject to Article V hereof, the Company shall do or cause to be done all things reasonably necessary to preserve and keep in full force and effect (a) its corporate existence, and the corporate, partnership or other existence of each of its subsidiaries, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Company or any such subsidiary and (b) the material rights (charter and statutory), licenses and franchises of the Company and its subsidiaries; *provided*, *however*, that the Company shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any of its subsidiaries, if the Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its subsidiaries, taken as a whole, and that the loss thereof is not adverse in any material respect to the Holders of the Notes.

Section 4.14 Offer to Repurchase upon Change of Control.

(a) At any time on or prior to September 30, 2007, if a Change of Control occurs, each Holder of Notes shall have the right pursuant to a Change of Control Offer to require the Company to repurchase all or any part (equal to $1.00 or an integral multiple thereof) of such Holder's Notes at an offer price in cash (expressed as a percentage of principal amount) of 110% plus accrued and unpaid interest, if any, to the Change of Control Payment Date.

(b) In addition, at any time after September 30, 2007, if a Change of Control occurs, each Holder of Notes shall have the right to require the Company to repurchase all or any part (equal to $1.00 or an integral multiple thereof) of such Holder's Notes pursuant to the offer described below (the "*Change of Control Offer*") at an offer price in cash (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest, if any, to the Change of Control Payment Date, if purchased during the twelve-month period beginning on October 1 of the years indicated below:

Year	**Percentage**
2007	109%
2008	102%
2009	101%
2010 and thereafter	100%

(c) Within 30 days following any Change of Control, the Company shall mail a notice to each Holder describing the transaction or transactions that constitute the Change of Control and which shall be no earlier than 30 days and no later than 60 days from the date such notice is mailed (the "*Change of Control Payment Date*") and stating that the Change of Control Offer is being made pursuant to this Section 4.14 and that all Notes properly tendered pursuant to the Change of Control Offer will be accepted for payment.

(d) Any Change of Control Offer shall be made in accordance with Section 3.09. The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with the repurchase of the Notes as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with this Section 4.14, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Section 4.14 by virtue of such compliance.

(e) Prior to complying with this Section 4.14, but in any event within 30 days following a Change of Control, the Company shall either repay all outstanding Senior Debt or obtain the requisite consents, if any, under all agreements governing outstanding Senior Debt to permit the repurchase of Notes required by this Section 4.14.

(f) Clause (b) of this Section 4.14 shall be applicable regardless of whether any other Sections of this Indenture are applicable. Except as described above with respect to a Change of Control, this Indenture does not contain provisions that permit the Holders of the Notes to require that the Company repurchase or redeem the Notes in the event of a takeover, recapitalization or similar transaction.

(g) The Company shall not be required to make a Change of Control Offer upon a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to a Change of Control Offer made by the Company and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer.

Section 4.15 Limitation on Senior Subordinated Debt. The Company shall not incur any Indebtedness that is subordinate or junior in right of payment to any Senior Debt of the Company unless it is *pari passu* or subordinate in right of payment to the Notes to the same extent. No Guarantor shall incur any Indebtedness that is subordinate or junior in right of payment to the Senior Debt of such Guarantor unless it is *pari passu* or subordinate in right of payment to such Guarantor's Note Guarantee to the same extent.

Section 4.16 Designation of Restricted and Unrestricted Subsidiaries. (a) The Board of Directors of the Company may designate any Restricted Subsidiary of the Company to be an Unrestricted Subsidiary; *provided* that:

(i) any Guarantee by the Company or any Restricted Subsidiary of any Indebtedness of the Subsidiary being so designated shall be deemed to be an incurrence of Indebtedness by the Company or such Restricted Subsidiary (or both, if applicable) at the time of such designation, and such incurrence of Indebtedness would be permitted under Section 4.09;

(ii) the aggregate fair market value of all outstanding Investments owned by the Company and its Restricted Subsidiaries in the Subsidiary being so designated (including any Guarantee by the Company or any Restricted Subsidiary of any Indebtedness of such Subsidiary) shall be deemed to be a Restricted Investment made as of the time of such designation and that such Investment would be permitted under Section 4.07;

(iii) such Subsidiary does not own any Equity Interests of, or hold any Liens on any Property of, the Company or any Restricted Subsidiary;

(iv) the Subsidiary being so designated:

(A) is not party to any agreement, contract, arrangement or understanding with the Company or any Restricted Subsidiary of the Company unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Company or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Company;

(B) is a Person with respect to which neither the Company nor any of its Restricted Subsidiaries has any direct or indirect obligation (x) to subscribe for additional Equity Interests or (y) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results;

(C) has not Guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Company or any of its Restricted Subsidiaries, except to the extent such Guarantee or credit support would be released upon such designation; and

(D) has at least one director on its Board of Directors that is not a director or officer of the Company or any of its Restricted Subsidiaries and has at least one executive officer that is not a director or officer of the Company or any of its Restricted Subsidiaries; and

(v) no Default or Event of Default would be in existence following such designation.

(b) Any designation of a Restricted Subsidiary of the Company as an Unrestricted Subsidiary shall be evidenced to the Trustee by filing with the Trustee a certified copy of the resolution of the Board of Directors giving effect to such designation and an Officers' Certificate certifying that such designation complied with the preceding conditions and was permitted by this Indenture. If, at any time, any Unrestricted Subsidiary would fail to meet any of the preceding requirements described in clause (iv) above, it shall thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness, Investments, or Liens on the property, of such Subsidiary shall be deemed to be incurred by a Restricted Subsidiary of the Company as of such date and, if such Indebtedness, Investments or Liens are not permitted to be incurred as of such date under this Indenture, the Company shall be in default under this Indenture.

(c) The Board of Directors of the Company may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary; *provided* that:

(i) such designation shall be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of the Company of any outstanding Indebtedness of such Unrestricted Subsidiary and such designation shall only be permitted if such Indebtedness is permitted under Section 4.09, calculated on a *pro forma* basis as if such designation had occurred at the beginning of the four-quarter reference period;

(ii) all outstanding Investments owned by such Unrestricted Subsidiary shall be deemed to be made as of the time of such designation and such Investments shall only be permitted if such Investments would be permitted under Section 4.07;

(iii) all Liens upon property or assets of such Unrestricted Subsidiary existing at the time of such designation would be permitted under Section 4.12; and

(iv) no Default or Event of Default would be in existence following such designation.

Section 4.17 Payments for Consent. The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Holder of Notes for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture or the Notes unless such consideration is offered to be paid and is paid to all Holders of the Notes that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or agreement.

Section 4.18 Business Activities. The Company shall not, and shall not permit any of its Restricted Subsidiaries to, engage in any business other than Permitted Businesses, except to such extent as would not be material to the Company and its Restricted Subsidiaries taken as a whole.

Section 4.19 Limitation on Issuances and Sales of Equity Interests in Restricted Subsidiaries. The Company shall not transfer, convey, sell, lease or otherwise dispose of, and shall not permit any of its Restricted Subsidiaries to, issue, transfer, convey, sell, lease or otherwise dispose of any Equity Interests in any Restricted Subsidiary of the Company to any Person (other than the Company or a Restricted Subsidiary of the Company or, if necessary, shares of its Capital Stock constituting directors' qualifying shares or issuances of shares of Capital Stock of foreign Restricted Subsidiaries to foreign nationals, to the extent required by applicable law), except:

(a) if, immediately after giving effect to such issuance, transfer, conveyance, sale, lease or other disposition, such Restricted Subsidiary would no longer constitute a Restricted Subsidiary and any Investment in such Person remaining after giving effect to such issuance or sale would have been permitted to be made under Section 4.07 if made on the date of such issuance or sale and the cash Net Proceeds from such transfer, conveyance, sale, lease or other; disposition are applied in accordance with Section 4.10; or

(b) other sales of Capital Stock of a Restricted Subsidiary by the Company or a Restricted Subsidiary, *provided* that the Company or such Restricted Subsidiary complies with Section 4.10.

Section 4.20 Additional Note Guarantees. (a) If the Company or any of its Restricted Subsidiaries acquires or creates another Domestic Subsidiary on or after the date of this Indenture, then that newly acquired or created Domestic Subsidiary must become a Guarantor and execute a supplemental indenture and deliver an Opinion of Counsel to the Trustee.

(b) The Company shall not permit any of its Restricted Subsidiaries, directly or indirectly, to Guarantee or pledge any assets to secure the payment of any other Indebtedness of the Company or any Restricted Subsidiary thereof, other than Foreign Subsidiaries, unless such Restricted Subsidiary is a Guarantor or simultaneously executes and delivers a supplemental indenture providing for the Guarantee of the payment of the Notes by such Restricted Subsidiary, which Guarantee shall be senior to or *pari passu* with such Subsidiary's Guarantee of such other Indebtedness unless such other Indebtedness is Senior Debt, in which case the Guarantee of the Notes may be subordinated to the Guarantee of such Senior Debt to the same extent as the Notes are subordinated to such Senior Debt. The form of the Note Guarantee is attached as Exhibit C hereto.

(c) A Guarantor may not sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge with or into (whether or not such Guarantor is the surviving Person), another Person, other than the Company or another Guarantor, unless:

(i) immediately after giving effect to that transaction, no Default or Event of Default exists; and

(ii) either:

(A) the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger (if other than the Guarantor) is a corporation organized or existing under the laws of the United States, any state thereof or the District of Columbia and assumes all the obligations of that Guarantor under this Indenture and its Note Guarantee pursuant to a supplemental indenture satisfactory to the Trustee; or

(B) such sale or other disposition or consolidation or merger complies with Section 4.10.

(d) The Note Guarantee of a Guarantor will be released:

(i) in connection with any sale or other disposition of all of the Capital Stock of a Guarantor to a Person that is not (either before or after giving effect to such transaction) an Affiliate of the Company, if the sale of all such Capital Stock of that Guarantor complies with Section 4.10;

(ii) if the Company properly designates any Restricted Subsidiary that is a Guarantor as an Unrestricted Subsidiary under this Indenture; or

(iii) solely in the case of a Note Guarantee created pursuant to Section 4.20(a), upon the release or discharge of the Guarantee which resulted in the creation of such Note Guarantee pursuant to this Section 4.20, except a discharge or release by or as a result of payment under such Guarantee.

ARTICLE V

SUCCESSORS

Section 5.01 Merger, Consolidation or Sale of Assets. (a) The Company shall not, directly or indirectly consolidate or merge with or into another Person (whether or not the Company is the surviving corporation) or sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties and assets of the Company and its Restricted Subsidiaries, taken as a whole, in one or more related transactions, to another Person or Persons, unless:

(i) either: (A) the Company is the surviving corporation; or (B) the Person formed by or surviving any such consolidation or merger (if other than the Company) or to which such sale, assignment, transfer, conveyance or other disposition shall have been made (x) is a corporation organized or existing under the laws of the United States, any state thereof or the District of Columbia and (y) assumes all the obligations of the Company under the Notes and this Indenture pursuant to agreements reasonably satisfactory to the Trustee;

(ii) immediately after giving effect to such transaction no Default or Event of Default exists;

(iii) immediately after giving effect to such transaction on a *pro forma* basis, the Company or the Person formed by or surviving any such consolidation or merger (if other than the Company), or to which such sale, assignment, transfer, conveyance or other disposition shall have been made, shall, on the date of such transaction after giving *pro forma* effect thereto and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, be permitted to incur at least $1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.09(a);

(iv) each Guarantor, unless such Guarantor is the Person with which the Company has entered into a transaction under this Section 5.01, shall have by amendment to its Note Guarantee confirmed that its Note Guarantee shall apply to the obligations of the Company or the surviving Person in accordance with the Notes and this Indenture; and

(v) the Company shall have delivered to the Trustee an Opinion of Counsel to the effect that the Holders will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such transaction and, will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such transaction had not occurred.

(b) Neither the Company nor any Restricted Subsidiary may, directly or indirectly, lease all or substantially all of its properties or assets, in one or more related transactions, to any other Person. Clause (iii) above of this Section 5.01 shall not apply to any merger, consolidation or sale, assignment, transfer, lease, conveyance or other disposition of assets between or among the Company and any of its Restricted Subsidiaries.

Section 5.02 Successor Corporation Substituted. Upon any consolidation or merger, or any sale, assignment, transfer, conveyance or other disposition of all or substantially all of the assets of the Company in accordance with Section 5.01 hereof, the successor corporation formed by such consolidation or into or with which the Company is merged or to which such sale, assignment, transfer, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, conveyance or other disposition, the provisions of this Indenture referring to the "Company" shall refer instead to the successor corporation and not to the Company), and may exercise every right and power of the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein; *provided*, *however*, that the predecessor Company shall not be relieved from the obligation to pay the principal of and interest on the Notes except in the case of a sale of all of the Company's assets that meets the requirements of Section 5.01 hereof.

ARTICLE VI

DEFAULTS AND REMEDIES

Section 6.01 Events of Default. Each of the following is an "*Event of Default*":

(i) default for 30 days in the payment when due of interest on the Notes whether or not prohibited by Article X of this Indenture;

(ii) default in payment when due (whether at maturity, upon acceleration, redemption or otherwise) of the principal of, or premium, if any, on the Notes, whether or not prohibited by Article X of this Indenture;

(iii) failure by the Company or any of its Restricted Subsidiaries to comply with Section 4.10, Section 4.14, Section 4.20(c) or Section 5.01;

(iv) failure by the Company or any of its Restricted Subsidiaries for 60 days after written notice by the Trustee or Holders representing 25% or more of the aggregate principal amount of Notes outstanding to comply with any of the other agreements in this Indenture;

(v) default under any, mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company or any of its Restricted Subsidiaries (or the payment of which is Guaranteed by the Company or any of its Restricted Subsidiaries) whether such Indebtedness or Guarantee now exists, or is created after the date of this Indenture, if that default:

(A) is caused by a failure to make any payment when due at the final maturity of such Indebtedness (a "*Payment Default*"); or

(B) results in the acceleration of such Indebtedness prior to its express maturity

and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates $10.0 million or more;

(vi) failure by the Company or any of its Restricted Subsidiaries to pay final judgments (to the extent such judgments are not paid or covered by insurance provided by a carrier that has acknowledged coverage in writing and has the ability to perform) aggregating in excess of $10.0 million, which judgments are not paid, discharged or stayed for a period of 60 days;

(vii) except as permitted by this Indenture, any Note Guarantee shall be held in any judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect or any Guarantor, or any Person acting on behalf of any Guarantor, shall deny or disaffirm its obligations under its Note Guarantee; and

(viii) the Company or any of its Restricted Subsidiaries that is a Significant Subsidiary (or any group of Restricted Subsidiaries that together would constitute a Significant Subsidiary of the Company), pursuant to or within the meaning of Bankruptcy Law:

(A) commences a voluntary case;

(B) consents to the entry of an order for relief against it in an involuntary case;

(C) makes a general assignment for the benefit of its creditors; or

(D) generally is not paying its debts as they become due; and

(ix) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(A) is for relief against the Company or any of its Restricted Subsidiaries that is a Significant Subsidiary (or any group of Restricted Subsidiaries that together would constitute a Significant Subsidiary of the Company), in an involuntary case;

(B) appoints a custodian of the Company or any of its Restricted Subsidiaries that is a Significant Subsidiary (or any group of Restricted Subsidiaries that together would constitute a Significant Subsidiary of the Company) or for all or substantially all of the property of the Company or any of its Restricted Subsidiaries that is a Significant Subsidiary (or any group of Restricted Subsidiaries that together would constitute a Significant Subsidiary of the Company); or

(C) orders the liquidation of the Company or any of its Restricted Subsidiaries that is a Significant Subsidiary (or any group of Restricted Subsidiaries that together would constitute a Significant Subsidiary of the Company);

and the order or decree remains undismissed or unstayed and in effect for 60 consecutive days.

Section 6.02 Acceleration. In the case of an Event of Default specified in clause (viii) or (ix) of Section 6.01 with respect to the Company, any Guarantor or any Significant Subsidiary (or any group of Restricted Subsidiaries that together would constitute a Significant Subsidiary of the Company), all outstanding Notes will become due and payable immediately without further action or notice. If any other Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare all the Notes to be due and payable immediately by notice in writing to the Company specifying the Event of Default.

In the event of a declaration of acceleration of the Notes because an Event of Default has occurred and is continuing as a result of the acceleration of any Indebtedness described in clause (v) of Section 6.01 hereof, the declaration of acceleration of the Notes shall be automatically annulled if the holders of any Indebtedness described in clause (v) of Section 6.01 hereof have rescinded the declaration of acceleration in respect of the Indebtedness if:

(i) the annulment of the acceleration of Notes would not conflict with any judgment or decree of a court of competent jurisdiction; and

(ii) all existing Events of Default, except nonpayment of principal or interest on the Notes that became due solely because of the acceleration of the Notes, have been cured or waived.

In the case of any Event of Default occurring by reason of any willful action or inaction taken or not taken by or on behalf of the Company with the intention of avoiding payment of the premium that the Company would have had to pay if the Company then had elected to redeem the Notes pursuant to Section 3.07 hereof, an equivalent premium shall also become and be immediately due and payable to the extent permitted by law upon the acceleration of the Notes.

Section 6.03 Other Remedies. If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, premium, if any, and interest, if any, on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

Section 6.04 Waiver of Past Defaults. Holders of a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default or Event of Default and its consequences hereunder (including rescinding any related acceleration of the payment of the Notes), except a continuing Default or Event of Default (and any related acceleration of the payment of the Notes) in the payment of the principal of, premium or interest on, the Notes. The Company shall deliver to the Trustee an Officers' Certificate stating that the requisite percentage of Holders have consented to such waiver and attaching copies of such consents. In case of any such waiver, the Company, the Trustee and the Holders shall be restored to their former positions and rights hereunder and under the Notes, respectively. This Section 6.04 shall be in lieu of Section 316(a)(1)(B) of the TIA and such Section 316(a)(1)(B) of the TIA is hereby expressly excluded from this Indenture and the Notes, as permitted by the TIA. Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

Section 6.05 Control by Majority. Subject to Section 2.09, holders of a majority in principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture, that may involve the Trustee in personal liability or that the Trustee determines in good faith may be unduly prejudicial to the rights of Holders of Notes not joining in the giving of such direction, and the Trustee shall have the right to decline to follow any such direction, if the Trustee, being advised by counsel, determines that such action so directed may not be lawfully taken or if the Trustee, in good faith shall by a Responsible Officer, determine that the proceedings so directed may involve the Trustee in personal liability; *provided* that the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction. In the event the Trustee takes any action or follows any direction pursuant to this Indenture, the Trustee shall be entitled to indemnification satisfactory to it in its sole discretion against any loss or expense caused by taking such action or following such direction. This Section 6.05 shall be in lieu of Section 316(a)(1)(A) of the TIA, and such Section 316(a)(1)(A) of the TIA is hereby expressly excluded from this Indenture and the Notes, as permitted by the TIA.

Section 6.06 Limitation on Suits. A Holder of a Note may not pursue a remedy with respect to this Indenture, the Notes or, the Note Guarantees unless:

(a) the Holder of a Note gives to the Trustee written notice of a continuing Event of Default;

(b) the Holders of at least 25% in aggregate principal amount of the then outstanding Notes make a written request to the Trustee to pursue the remedy;

(c) such Holder of a Note or Holders of Notes offer and, if requested, provide to the Trustee indemnity satisfactory to the Trustee against any loss, liability or expense;

(d) the Trustee does not comply with the request within 60 days after receipt of the request and the offer and, if requested, the provision of indemnity; and

(e) during such 60-day period the Holders of a majority in principal amount of the then outstanding Notes do not give the Trustee a direction inconsistent with the request.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

Section 6.07 Rights of Holders of Notes to Receive Payment. Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of principal, premium, if any, and interest on the Note, on or after the respective due dates expressed in the Note (including in connection with an offer to purchase), or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

Section 6.08 Collection Suit by Trustee. If an Event of Default specified in Section 6.01 occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal of, premium, if any, and interest remaining unpaid on the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

Section 6.09 Trustee May File Proofs of Claim. The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Company or any Guarantor (or any other obligor upon the Notes), its creditors or its property and shall be entitled and empowered to collect, receive and distribute any money or other securities or property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10 Priorities. If the Trustee collects any money or property pursuant to this Article, it shall pay out the money in the following order:

First: to the Trustee, its agents and attorneys for amounts due under Section 7.07 hereof, including payment of all compensation, expense and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

Second: to Holders of Notes for amounts due and unpaid on the Notes for principal, premium, if any, and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal, premium, if any, and interest, respectively; and

Third: to the Company or to such party as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 6.10.

Section 6.11 Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section does not apply to a suit by the Trustee, a suit by a Holder of a Note pursuant to Section 6.07 hereof, or a suit by Holders of more than 10% in principal amount of the then outstanding Notes.

Section 6.12 Restoration of Rights and Remedies. If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Company, any Subsidiary Guarantor, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 6.13 Rights and Remedies Cumulative. Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in Section 2.07, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 6.14 Delay or Omission Not Waiver. No delay or omission of the Trustee or of any Holder of any Note to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article VI or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

Section 6.15 Record Date. The Company may set a record date for purposes of determining the identity of Holders entitled to vote or to consent to any action by vote or consent authorized or permitted by Sections 6.04, 6.05 and 9.02. Unless the Company provides otherwise, such record date shall be the later of 30 days prior to the first solicitation of such consent or the date of the most recent list of Holders furnished to the Trustee pursuant to Section 2.05 prior to such solicitation.

ARTICLE VII

TRUSTEE

Section 7.01 Duties of Trustee. (a) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of its own affairs.

(b) Except during the continuance of an Event of Default:

(i) the duties of the Trustee shall be determined solely by this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the form required of this Indenture. However, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts purported to be stated therein).

(c) The Trustee may not be relieved from, liabilities for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) this paragraph does not limit the effect of paragraph (b) of this Section;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05 hereof.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b), and (c) of this Section.

(e) No provision of this Indenture shall require the Trustee to expend or risk its own funds or incur any liability. The Trustee shall be under no obligation to exercise any of its rights and powers under this Indenture at the request of any Holders, unless such Holder shall have offered to the Trustee security and indemnity satisfactory to it against any loss, liability or expense.

(f) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company. Money or assets held in trust by the Trustee need not be segregated from other funds or assets except to the extent required by law.

Section 7.02 Rights of Trustee. (a) The Trustee may conclusively rely upon any document (whether in its original or facsimile form) believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, it may consult with counsel and may require an Officers' Certificate or an Opinion of Counsel or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officers' Certificate or Opinion of Counsel. The Trustee may consult with counsel and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent or attorney appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company shall be sufficient if signed by an Officer of the Company.

(f) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders unless such Holders shall have offered to the Trustee reasonable security or indemnity satisfactory to it against the costs, expenses and liabilities that might be incurred by it in compliance with such request or direction.

(g) The Trustee shall not be deemed to have knowledge of any Default or Event of Default except (i) any Event of Default occurring pursuant to Section 6.01 or (ii) any Event of Default of which the Trustee shall have received written notification or otherwise obtained actual knowledge.

Section 7.03 Individual Rights of Trustee. The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or any Affiliate of the Company with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest that would require the Trustee to resign, it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as trustee or resign. Any Agent may do the same with like rights and duties. The Trustee is also subject to Sections 7.10 and 7.11 hereof.

Section 7.04 Trustee's Disclaimer. The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Company's use of the proceeds from the Notes or any money paid to the Company or upon the Company's direction under any provision of this Indenture, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication.

Section 7.05 Notice of Defaults. If a Default or Event of Default occurs and is continuing and if it is known to the Trustee, the Trustee shall mail to the Holders of the Notes a notice of the Default or Event of Default within 90 days after it occurs. Except in the case of a Default or Event of Default in payment of principal of, premium, if any, or interest on any Note, the Trustee may withhold the notice if and so long as a Responsible Officer or a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the Notes.

Section 7.06 Reports by Trustee to the Holders of the Notes. Within 60 days after each May 15 beginning with the May 15 following the date the Notes were first issued, and for so long as Notes remain outstanding, the Trustee shall mail to the Holders of the Notes a brief report dated as of such reporting date that complies with TIA § 313(a) (but if no event described in TIA § 313(a) has occurred within the twelve months preceding the reporting date, no report need be transmitted). The Trustee also shall comply with TIA § 313(b)(2). The Trustee shall also transmit by mail all reports as required by TIA § 313(c).

A copy of each report at the time of its mailing to the Holders of the Notes shall be mailed to the Company and filed with the SEC and each stock exchange on which the Notes are listed in accordance with TIA § 313(d). The Company shall promptly notify the Trustee when the Notes are listed on any securities exchange or of any delisting thereof.

Section 7.07 Compensation and Indemnity. The Company shall pay to the Trustee from time to time reasonable compensation for its acceptance of this Indenture and services hereunder. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel and any taxes or other expenses incurred by a trust created pursuant to Section 8.04 hereof.

The Company shall indemnify the Trustee and its agents against any and all losses, liabilities, claims, damages or expenses (including compensation, fees, disbursements and expenses of Trustee's agents and counsel) incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company (including this Section 7.07) and defending itself against any claim (whether asserted by the Company or any Holder or any other person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, except to the extent any such loss, liability or expense is judicially determined to have been caused by to its own negligence or bad faith. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company shall not relieve the Company of its obligations hereunder. The Company shall defend the claim and the Trustee shall cooperate in the defense. The Trustee may have separate counsel and the Company shall pay the reasonable fees and expenses of such counsel. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld.

The obligations of the Company under this Section 7.07 shall survive the satisfaction and discharge of this Indenture.

To secure the Company's payment obligations in this Section 7.07, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee. Such Lien shall survive the satisfaction and discharge of this Indenture. The Trustee's right to receive payment of any amounts due under this Section 7.07 shall not be subordinated to any other liability or Indebtedness of the Company.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(viii) or (ix) hereof occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

The Trustee shall comply with the provisions of TIA § 313(b)(2) to the extent applicable.

Section 7.08 Replacement of Trustee. A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.08.

The Trustee may resign in writing at any time and be discharged from the trust hereby created by so notifying the Company. The Holders of a majority in principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Company in writing. The Company may remove the Trustee if:

(a) the Trustee fails to comply with Section 7.10 hereof;

(b) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

(c) a custodian or public officer takes charge of the Trustee or its property; or

(d) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company, or the Holders of Notes of at least 10% in principal amount of the then outstanding Notes may petition at the expense of the Company any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee, after written request by any Holder of a Note who has been a Holder of a Note for at least six months, fails to comply with Section 7.10, such Holder of a Note may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders of the Notes. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, provided all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.07 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 7.08, the Company's obligations under Section 7.07 hereof shall continue for the benefit of the retiring Trustee.

Section 7.09 Successor Trustee by Merger, Etc. If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act shall be the successor Trustee.

Section 7.10 Eligibility; Disqualification. There shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least $50 million as set forth in its most recent published annual report of condition.

This Indenture shall always have a Trustee who satisfies the requirements of TIA §§ 310(a)(1), (2) and (5). The Trustee is subject to TIA § 310(b); *provided, however*, that there shall be excluded from the operation of TIA § 310(b)(1) any indenture or indentures under which other securities, or certificates of interest or participation in other securities, of the Company are outstanding, if the requirements for such exclusion set forth in TIA § 310(b)(1) are met.

Section 7.11 Preferential Collection of Claims Against Company. The Trustee is subject to TIA § 311(a), excluding any creditor relationship listed in TIA § 311(b). A Trustee who has resigned or been removed shall be subject to TIA § 311(a) to the extent indicated therein. The Trustee hereby waives any right to set off any claim that it may have against the Company in any capacity (other than as Trustee and Paying Agent) against any of the assets of the Company held by the Trustee; *provided, however*, that if the Trustee is or becomes a lender of any other Indebtedness permitted hereunder to be *pari passu* with the Notes, then such waiver shall not apply to the extent of such Indebtedness.

ARTICLE VIII

LEGAL DEFEASANCE AND COVENANT DEFEASANCE; SATISFACTION AND DISCHARGE

Section 8.01 Option to Effect Legal Defeasance or Covenant Defeasance. The Company may, at the option of its Board of Directors evidenced by a resolution set forth in an Officers' Certificate, at any time, elect to have either Section 8.02 or Section 8.03 hereof be applied to all outstanding Notes upon compliance with the conditions set forth below in this Article VIII.

Section 8.02 Legal Defeasance and Discharge. Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.01, the Company shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be deemed to have been discharged from its obligations with respect to all outstanding Notes and all obligations of the Guarantors shall be deemed to have been discharged with respect to their obligations under the Note Guarantees on the date the conditions set forth below are satisfied (hereinafter, "*Legal Defeasance*"). For this purpose, Legal Defeasance means that the Company and the Guarantors shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes and Note Guarantees, respectively, which shall thereafter be deemed to be "outstanding" only for the purposes of Section 8.08 hereof and the other Sections of this Indenture referred to in (a) and (b) below, and to have satisfied all its other obligations under such Notes and this Indenture (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following clauses, which shall survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of outstanding Notes to receive solely from the trust fund described in Section 8.04 hereof, and as more fully set forth in such Section, payments in respect of the principal of, premium, if any, and interest on such Notes when such payments are due, (b) the Company's obligations with respect to such Notes under Article II and Section 4.02 hereof, (c) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Company's obligations in connection therewith and (d) this Article VIII. Subject to compliance with this Article VIII, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 hereof.

Section 8.03 Covenant Defeasance. Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, the Company and each of the Guarantors shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be released from their respective obligations under the covenants set forth in Sections 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.13, 4.14, 4.15, 4.16, 4.17, 4.18, 4.19 and 4.20, hereof with respect to the outstanding Notes on and after the date the conditions set forth in Section 8.04 are satisfied (hereinafter, "*Covenant Defeasance*"), and the Notes shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes shall not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01 hereof, but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby. In addition, upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, clauses (i) through (iii) of Section 6.01 and clauses (v) through (vii) of Section 6.01 hereof shall cease to operate and not constitute Events of Default.

Section 8.04 Conditions to Legal Defeasance or Covenant Defeasance. The following shall be the conditions to the application of either Section 8.02, or 8.03 hereof to the outstanding Notes:

In order to exercise either Legal Defeasance or Covenant Defeasance:

(a) the Company shall irrevocably deposit with the Trustee, in trust, for the benefit of the Holders of the Notes, cash in U.S. dollars, non callable Government Securities, or a combination thereof, in such amounts as shall be sufficient, in the opinion of a nationally recognized firm of independent public accountants, to pay the principal of, premium, if any, and interest on the outstanding Notes on the Stated Maturity or on the applicable redemption date, as the case may be, and the Company shall specify whether the Notes are being defeased to maturity or to a particular redemption date;

(b) in the case of an election under Section 8.02 hereof, the Company shall have delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that (i) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (ii) since the date of this Indenture, there has been a change in the applicable U.S. federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the Holders of the outstanding Notes shall not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Legal Defeasance and shall be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(c) in the case of an election under Section 8.03 hereof, the Company shall have delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that the Holders of the outstanding Notes shall not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and shall be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(d) no Default or Event of Default shall have occurred and be continuing either (i) in the case of Covenant Defeasance or Legal Defeasance, on the date of such deposit, or (ii) in the case of Legal Defeasance, insofar as an Event of Default set forth in Section 6.01(viii) shall have occurred and be continuing, at any time in the period ending on the 123rd day after the date of deposit;

(e) such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under any material agreement or instrument (other than this Indenture) to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound;

(f) the Company shall have delivered to the Trustee an Opinion of Counsel to the effect that, (i) assuming no intervening bankruptcy of the Company or any Guarantor between the date of deposit and the 123rd day following the deposit and assuming that no Holder is an "insider" of the Company under applicable bankruptcy law, after the 123rd day following the deposit, the trust funds shall not be subject to the effect of Section 547 of the United States Bankruptcy Code or Section 15 of the New York Debtor and Creditor Law and (ii) the creation of the defeasance trust does not violate the Investment Company Act of 1940;

(g) the Company shall have delivered to the Trustee an Officers' Certificate stating that the deposit was not made by the Company with the intent of preferring the Holders of Notes over any other creditors of the Company with the intent of defeating, hindering, delaying or defrauding any other creditors of the Company or others;

(h) if the Notes are to be redeemed prior to their Stated Maturity, the Company shall have delivered to the Trustee irrevocable instructions to redeem all of the Notes on the specified redemption date; and

(i) the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent, including, without limitation, the conditions set forth in this Section 8.04, provided for or relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

Section 8.05 Satisfaction and Discharge of Indenture. This Indenture shall be discharged and shall cease to be of further effect as to all Notes issued hereunder when:

(i) either:

(A) all Notes that have been authenticated (except lost, stolen or destroyed Notes that have been replaced or paid and Notes for whose payment money has theretofore been deposited in trust and thereafter repaid to the Company) have been delivered to the Trustee for cancellation; or

(B) all Notes that have not been delivered to the Trustee for cancellation have become due and payable by reason of the making of a notice of redemption or otherwise or will become due and payable within one year and the Company or any Guarantor has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders, cash in U.S. dollars, non-callable Government Securities, or a combination thereof, in such amounts as will be sufficient without consideration of any reinvestment of interest, to pay and discharge the entire indebtedness on the Notes not delivered to the Trustee for cancellation for principal, premium, if any, and accrued interest to the date of maturity or redemption;

(ii) no Default or Event of Default shall have occurred and be continuing on the date of such deposit or shall occur as a result of such deposit and such deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Company or any Guarantor is a party or by which the Company or any Guarantor is bound;

(iii) the Company or any Guarantor has paid or caused to be paid all sums payable by it under this Indenture; and

(iv) the Company has delivered irrevocable instructions to the Trustee under this Indenture to apply the deposited money toward the payment of the Notes at maturity or the redemption date, as the case may be.

In addition, the Company must deliver an Officers' Certificate and an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

Section 8.06 Survival of Certain Obligations. Notwithstanding Sections 8.02, 8.03 and 8.05, any obligations of the Company and the Guarantors in Sections 2.03 through 2.16 (excluding Sections 2.08 and 2.14), 6.07, 7.07, 7.08, and 8.07 through 8.11 shall survive until the Notes have been paid in full. Thereafter, any obligations of the Company and the Guarantors in Sections 7.07, 8.07, 8.08 and 8.10 shall survive such satisfaction and discharge. Nothing contained in this Article VIII shall abrogate any of the obligations or duties of the Trustee under this Indenture.

Section 8.07 Acknowledgment of Discharge by Trustee. After the conditions of Section 8.02, 8.03 or 8.05 have been satisfied, the Trustee upon written request shall acknowledge in writing the discharge of all of the Company's obligations under this Indenture except for those surviving obligations specified in this Article VIII.

Section 8.08 Deposited Money and Cash Equivalents to Be Held in Trust; Other Miscellaneous Provisions. Subject to Section 8.09 hereof, all money and non-callable Cash Equivalents (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.08, the "*Trustee*") pursuant to Section 8.04 hereof in respect of the outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or non-callable Cash Equivalents deposited pursuant to Section 8.04(a) hereof or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

Anything in this Article VIII to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon the request of the Company any money or non-callable Cash Equivalents held by it as provided in Section 8.04 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04 hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

Section 8.09 Repayment to Company. Subject to any applicable abandoned property law, any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium, if any, and interest on any Note and remaining unclaimed for two years after such principal, and premium, if any, and interest has become due and payable shall be paid to the Company on its request or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter, as a secured creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; *provided, however*, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in the New York Times and The Wall Street Journal (national edition), notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such notification or publication, any unclaimed balance of such money then remaining shall be repaid to the Company.

Section 8.10 Indemnity for Government Securities. The Company shall pay and shall indemnify the Trustee against any tax, fee or other charge imposed on or assessed against deposited U.S. Government Obligations or the principal and interest, if any, received on such U.S. Government Obligations.

Section 8.11 Reinstatement. If the Trustee or Paying Agent is unable to apply any United States dollars or non-callable Government Securities in accordance with Section 8.02 or 8.03 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03 hereof, as the case may be; *provided, however*, that, if the Company makes any payment of principal of, premium, if any, or interest on any Note following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE IX

AMENDMENT, SUPPLEMENT AND WAIVER

Section 9.01 Without Consent of Holders of Notes. Notwithstanding Section 9.02 of this Indenture, without the consent of any Holder of Notes, the Company, the Guarantors and the Trustee may amend or supplement this Indenture, or the Notes or the Note Guarantees:

(a) to cure any ambiguity, defect, error or inconsistency;

(b) to provide for uncertificated Notes in addition to or in place of certificated Notes;

(c) to provide for the assumption of the Company's or any Guarantor's obligations to Holders of Notes in the case of a merger or consolidation or sale of all or substantially all of the assets of the Company or of such Guarantor;

(d) to make any change that would provide any additional rights or benefits to the Holders of Notes or that does not adversely affect the legal rights under this Indenture of any such Holder;

(e) to comply with requirements of the SEC in order to effect or maintain the qualification of this Indenture under the Trust Indenture Act;

(f) to comply with the requirements of Section 4.20;

(g) to evidence and provide for the acceptance of appointment by a successor Trustee; or

(h) to provide for the issuance of Additional Notes in accordance with this Indenture.

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental Indenture, and upon receipt by the Trustee of the documents described in Section 7.02(b) hereof stating that such amended or supplemental Indenture complies with this Section 9.01, the Trustee shall join with the Company in the execution of any amended or supplemental Indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to enter into such amended or supplemental Indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

Section 9.02 With Consent of Holders of Notes. Except as provided below in this Section 9.02, this Indenture (including Sections 3.09, 4.10 and 4.14 hereof), the Notes or the Note Guarantees may be amended or supplemented with the consent of the Holders of at least a majority in principal amount of the Notes then outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes), and, subject to Sections 6.04 and 6.07 hereof, any existing Default or Event of Default or compliance with any provision of this Indenture or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, Notes). Without the consent of the Holders of at least 75% in principal amount of the Notes then outstanding voting as a single class (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, the Notes), an amendment or waiver may not amend or modify any of the provisions of this Indenture or the related definitions affecting the subordination or ranking of the Notes or any Note Guarantee in any manner adverse to the holders of the Notes or any Note Guarantee. Section 2.08 hereof shall determine which Notes are considered to be "outstanding" for purposes of this Section 9.02.

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental Indenture, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Notes as aforesaid, and upon receipt by the Trustee of the documents described in Section 7.02(b) hereof stating that any such amended or supplemental Indenture complies with this Section 9.02, the Trustee shall join with the Company in the execution of such amended or supplemental Indenture unless such amended or supplemental Indenture directly affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such amended or supplemental Indenture.

It shall not be necessary for the consent of the Holders of Notes under this Section 9.02 to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Company shall mail to the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amended or supplemental Indenture or waiver.

Subject to Sections 6.04 and 6.07 hereof, the Holders of a majority in aggregate principal amount of the Notes then outstanding voting as a single class may waive compliance in a particular instance by the Company with any provision of this Indenture or the Notes. However, without the consent of each Holder affected, an amendment or waiver under this Section 9.02 may not (with respect to any Notes held by a non-consenting Holder):

(a) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;

(b) reduce the principal of or change the fixed maturity of any Note or alter the provisions, or waive any payment, with respect to the redemption of the Notes;

(c) reduce the rate of or change the time for payment of interest on any Note;

(d) waive a Default or Event of Default in the payment of principal of or premium, if any, or interest on the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the Notes and a waiver of the payment default that resulted from such acceleration);

(e) make any Note payable in money other than U.S. dollars;

(f) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of principal of, or interest or premium, if any, on the Notes;

(g) release any Guarantor from any of its obligations under its Note Guarantee of these Notes or this Indenture, except in accordance with the terms of this Indenture;

(h) impair the right to institute suit for the enforcement of any payment on or with respect to the Notes or the Note Guarantees;

(i) amend, change or modify the obligation of the Company to make and consummate an Asset Sale Offer with respect to any Asset Sale in accordance with Section 4.10 after the obligation to make such an Asset Sale Offer has arisen, or the obligation of the Company to make and consummate a Change of Control Offer in the event of a Change of Control in accordance with Section 4.14 after such Change of Control has occurred, including, in each case, amending, changing or modifying any definition relating thereto;

(j) except as otherwise permitted under Section 5.01 and Article XI, consent to the assignment or transfer by the Company or any Guarantor of any of their rights or obligations under this Indenture; or

(k) make any change in Section 6.04 or 6.07 hereof or in the foregoing amendment and waiver provisions.

Section 9.03 Compliance with Trust Indenture Act. Every amendment or supplement to this Indenture or the Notes shall be set forth in a amended or supplemental Indenture that complies with the TIA as then in effect.

Section 9.04 Revocation and Effect of Consents. Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by such Holder of a Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

Section 9.05 Notation on or Exchange of Notes. The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Company in exchange for all Notes may issue and the Trustee shall, upon receipt of an Authentication Order, authenticate new Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

Section 9.06 Trustee to Sign Amendments, Etc. The Trustee shall sign any amended or supplemental indenture or Note authorized pursuant to this Article IX if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. The Company may not sign an amendment or supplemental indenture or Note until the Board of Directors approves it. In executing any amended or supplemental indenture or Note, the Trustee shall be entitled to receive and (subject to Section 7.01 hereof) shall be fully protected in relying upon, in addition to the documents required by Section 11.04 hereof, an Officer's Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture. The Trustee may, but shall not be obligated to, execute any such amendment, supplement or waiver which affects the Trustee's rights, duties or immunities under this Indenture or otherwise. In signing any amendment, supplement or waiver, the Trustee shall be entitled to receive an indemnity reasonably satisfactory to it.

ARTICLE X

SUBORDINATION

Section 10.01 Agreement to Subordinate. The Company agrees, and each Holder by accepting a Note agrees, that the Indebtedness evidenced by the Notes is subordinated in right of payment, to the extent and in the manner provided in this Article X, to the prior payment in full in cash or Cash Equivalents of all Senior Debt (whether outstanding on the date of this Indenture or hereafter created, incurred, assumed or guaranteed), and that the subordination is for the benefit of the holders of Senior Debt.

Section 10.02 Liquidation; Dissolution; Bankruptcy. The holders of Senior Debt of the Company shall be entitled to receive payment in full in cash or Cash Equivalents of all Obligations due in respect of Senior Debt of the Company (including interest after the commencement of any bankruptcy proceeding at the rate specified in the applicable Senior Debt of the Company whether or not an allowed claim) before the Holders of Notes shall be entitled to receive any payment with respect to the Notes (except that Holders of Notes may receive and retain Permitted Junior Securities and payments made from the trust pursuant to Article VIII hereof), in the event of any distribution to creditors of the Company in connection with (a) any liquidation or dissolution of the Company; (b) any bankruptcy, reorganization, insolvency, receivership or similar proceeding relating to the Company or its property; (c) any assignment by the Company for the benefit of its creditors; or (d) any marshaling of the Company's assets and liabilities.

Section 10.03 Default on Designated Senior Debt. The Company shall not make any payment in respect of the Notes (except in Permitted Junior Securities or from the trust pursuant to Article VIII hereof) if:

(a) a payment default on Designated Senior Debt of the Company occurs and is continuing; or

(b) any other default (a "nonpayment default") occurs and is continuing on any series of Designated Senior Debt of the Company that permits holders of that series of Designated Senior Debt of the Company to accelerate its maturity and the Trustee receives a written notice of such default (a "*Payment Blockage Notice*") from the Company or (i) with respect to Designated Senior Debt incurred pursuant to the Credit Agreement, the agent for the lenders thereunder and (ii) with respect to any other Designated Senior Debt, the holders of such Designated Senior Debt.

(c) Payments on the Notes may and shall be resumed:

(i) in the case of a payment default on Designated Senior Debt of the Company, upon the date on which such default is cured or waived; and

(ii) in case of a nonpayment default of the Company, the earlier of the date on which such default is cured or waived or 179 days after the date on which the applicable Payment Blockage Notice is received, unless the maturity of such Designated Senior Debt of the Company has been accelerated.

(d) No new Payment Blockage Notice may be delivered unless and until:

(i) 360 days have elapsed since the delivery of the immediately prior Payment Blockage Notice; and

(ii) all scheduled payments of principal, interest and premium, if any, on the Notes that have come due have been paid in full in cash.

(e) No nonpayment default that existed or was continuing on the date of delivery of any Payment Blockage Notice to the Trustee shall be, or be made, the basis for a subsequent Payment Blockage Notice.

Section 10.04 Acceleration of Securities. If payment of the Notes is accelerated because of an Event of Default, the Company shall promptly notify holders of Senior Debt of the acceleration.

Section 10.05 When Distribution Must Be Paid Over. In the event that the Trustee or any Holder receives any payment of any Obligations with respect to the Notes (except in Permitted Junior Securities or from the trust pursuant to Article VIII hereof) at a time when the payment is prohibited by this Article and the Trustee or such Holder, as applicable, has actual knowledge that such payment is prohibited by Article X hereof, such payment shall be held by the Trustee or such Holder, as applicable, in trust for the benefit of the holders of the Senior Debt of the Company, upon written request of the holders of the Senior Debt of the Company shall be paid forthwith over and delivered, to the holders of Senior Debt as their interests may appear or their proper Representative, for application to the payment of all Obligations with respect to Senior Debt remaining unpaid to the extent necessary to pay such Obligations in full in accordance with their terms, after giving effect to any concurrent payment or distribution to or for the holders of Senior Debt.

With respect to the holders of Senior Debt, the Trustee undertakes to perform only such obligations on the part of the Trustee as are specifically set forth in this Article X, and no implied covenants or obligations with respect to the holders of Senior Debt shall be read into this Indenture against the Trustee. The Trustee shall not be deemed to owe any fiduciary duty to the holders of Senior Debt, and shall not be liable to any such holders if the Trustee shall pay over or distribute to or on behalf of Holders or the Company or any other Person money or assets to which any holders of Senior Debt shall be entitled by virtue of this Article X, except if such payment is made as a result of the willful misconduct or gross negligence of the Trustee.

Section 10.06 Notice by the Company. The Company shall promptly notify the Trustee and the Paying Agent in writing of any facts known to the Company that would cause a payment of any Obligations with respect to the Notes to violate this Article X, but failure to give such notice shall not affect the subordination of the Notes to the Senior Debt as provided in this Article X.

Section 10.07 Subrogation. After all Senior Debt is paid in full and until the Notes are paid in full, Holders of Notes shall be subrogated (equally and ratably with all other Indebtedness *pari passu* with the Notes) to the rights of holders of Senior Debt to receive distributions applicable to Senior Debt to the extent that distributions otherwise payable to the Holders of Notes have been applied to the payment of Senior Debt. A distribution made under this Article X to holders of Senior Debt that otherwise would have been made to Holders of Notes is not, as between the Company and Holders, a payment by the Company on the Notes.

Section 10.08 Relative Rights. This Article X defines the relative rights of Holders of Notes and holders of Senior Debt. Nothing in this Indenture shall:

(a) impair, as between, the Company and Holders of Notes, the obligation of the Company, which is absolute and unconditional, to pay principal of and interest on the Notes in accordance with their terms;

(b) affect the relative rights of Holders of Notes and creditors of the Company other than their rights in relation to holders of Senior Debt; or

(c) prevent the Trustee or any Holder of Notes from exercising its available remedies upon a Default or Event of Default, subject to the rights of holders and owners of Senior Debt to receive distributions and payments otherwise payable to Holders of Notes.

If the Company fails because of this Article X to pay principal of or interest on a Note on the due date, the failure is still a Default or Event of Default.

Section 10.09 Subordination May Not Be Impaired by the Company. No right of any holder of Senior Debt to enforce the subordination of the Indebtedness evidenced by the Notes shall be impaired by any act or failure to act by the Company or any Holder or by the failure of the Company or any Holder to comply with this Indenture.

Section 10.10 Distribution or Notice to Representative. Whenever a distribution is to be made or a notice given to holders of Senior Debt, the distribution may be made and the notice given to their Representative.

Upon any payment or distribution of assets of the Company referred to in this Article X, the Trustee and the Holders of Notes shall be entitled to rely upon any order or decree made by any court of competent jurisdiction or upon any certificate of such Representative or of the liquidating trustee or agent or other Person making any distribution to the Trustee or to the Holders of Notes for the purpose of ascertaining the Persons entitled to participate in such distribution, the holders of the Senior Debt and other Indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article X.

Section 10.11 Rights of Trustee and Paying Agent. Notwithstanding this Article X or any other provision of this Indenture, the Trustee shall not be charged with knowledge of the existence of any facts that would prohibit the making of any payment or distribution by the Trustee, and the Trustee and the Paying Agent may continue to make payments on the Notes, unless the Trustee shall have received at its Corporate Trust Office at least five Business Days prior to the date of such payment written notice of facts that would cause the payment of any Obligations with respect to the Notes to violate this Article X. Only the Company or a Representative may give the notice. Nothing in this Article X shall impair the claims of, or payments to, the Trustee under or pursuant to Section 7.07 hereof.

The Trustee in its individual or any other capacity may hold Senior Debt with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights.

Section 10.12 Authorization to Effect Subordination. Each Holder of Notes, by the Holder's acceptance thereof, authorizes and directs the Trustee on such Holder's behalf to take such action as may be necessary or appropriate to effectuate the subordination as provided in this Article X, and appoints the Trustee to act as such Holder's attorney-in-fact for any and all such purposes. If the Trustee does not file a proper proof of claim or proof of debt in the form required in any proceeding referred to in Section 6.09 hereof before the expiration of the time to file such claim, the lenders under the Credit Agreement are hereby authorized to file an appropriate claim for and on behalf of the Holders of the Notes; *provided* that, in the event the Trustee files a proper proof of claim prior to expiration, the Trustee's proof of claim shall supersede that of the lenders under the Credit Agreement in respect of the Holders of the Notes.

ARTICLE XI

NOTE GUARANTEES

Section 11.01 Guarantee. Subject to this Article XI each of the Guarantors hereby, jointly and severally, unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the obligations of the Company hereunder or thereunder, that:

(a) (i) the principal of and interest on the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful (subject in all cases to any applicable grace period provided herein), and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and (ii) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at Stated Maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors shall be jointly and severally obligated to pay the same immediately. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

(b) The Guarantors hereby agree that their obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to this Indenture, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a Guarantor. Subject to Section 6.06 hereof and to the extent permitted by applicable law, each Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenant that this Note Guarantee shall not be discharged except by complete performance of the obligations contained in the Notes and this Indenture.

(c) If any Holder or the Trustee is required by any court or otherwise to return to the Company, the Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to either the Company or the Guarantors, any amount paid by either to the Trustee or such Holder, this Note Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.

(d) Each Guarantor agrees that it shall not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article VI hereof for the purposes of this Note Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article VI hereof, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantors for the purpose of this Note Guarantee. The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Note Guarantee.

Section 11.02 Subordination of Note Guarantee. The Obligations of each Guarantor under its Note Guarantee pursuant to this Article XI shall be subordinated to the Guarantee of any Senior Debt of such Guarantor on the same basis as the Notes are subordinated to Senior Debt of the Company. For the purposes of the foregoing sentence, the Trustee and the Holders shall have the right to receive and/or retain payments by any of the Guarantors only at such times as they may receive and/or retain payments in respect of the Notes pursuant to this Indenture, including Article X hereof.

Section 11.03 Limitation on Guarantor Liability. Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Note Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable to any Note Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of such Guarantor shall, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article XI, result in the obligations of such Guarantor under its Note Guarantee not constituting a fraudulent transfer or conveyance.

Section 11.04 Execution and Delivery of Note Guarantee. To evidence its Note Guarantee set forth in Section 11.01, each Guarantor hereby agrees that a notation of such Note Guarantee substantially in the form included in Exhibit C attached hereto shall be endorsed by an Officer of such Guarantor on each Note authenticated and delivered by the Trustee and that this Indenture shall be executed on behalf of such Guarantor by its President or one of its Vice Presidents.

Each Guarantor hereby agrees that its Note Guarantee set forth in Section 11.01 shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Note Guarantee.

If an Officer whose signature is on this Indenture or on the Note Guarantee no longer holds that office at the time the Trustee authenticates the Note on which a Note Guarantee is endorsed, the Note Guarantee shall be valid nevertheless.

The delivery of any Note by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Note Guarantee set forth in this Indenture on behalf of the Guarantors.

Section 11.05 Releases Following Sale of Assets. Any Guarantor shall be released and relieved of any obligations under its Note Guarantee, (a) in connection with any sale of all of the Capital Stock of that Guarantor (including by way of merger or consolidation) to a Person that is not (either before or after giving effect to such transaction) an Affiliate of the Company, if the sale of all of such Capital Stock of that Guarantor complies with Section 4.10 hereof, including the application of the Net Proceeds therefrom; (b) if the Company designated such Subsidiary Guarantor as an Unrestricted Subsidiary in accordance with this Indenture; or (c) solely in the case of a Note Guarantee created pursuant to Section 4.20(a), upon the release or discharge of the Guarantee which resulted in the creation of such Note Guarantee pursuant to Section 4.20, except a discharge or release by or as a result of payment under such Guarantee.

Any Guarantor not released from its obligations under its Note Guarantee shall remain liable for the full amount of principal of and interest on the Notes and for the other obligations of any Guarantor under this Indenture as provided in this Article XI.

Section 11.06 Additional Guarantors. The Company covenants and agrees that it shall cause any Person which becomes obligated to become a Guarantor, pursuant to the terms of Section 4.20, to execute a supplemental indenture substantially in the form of Exhibit D hereto and any other documentation requested by the Trustee satisfactory in form to the Trustee in accordance with Section 4.20 pursuant to which such Restricted Subsidiary shall guarantee the obligations of the Company under the Notes and this Indenture in accordance with this Article XI with the same effect and to the same extent as if such Person had been named herein as a Subsidiary Guarantor.

Section 11.07 Notation Not Required. Neither the Company nor the Guarantors shall be required to make a notation on the Notes to reflect any Note Guarantee or any release, termination or discharge thereof.

Section 11.08 Successors and Assigns. This Article XI shall be binding upon the Guarantors and each of their successors and assigns and shall inure to the benefit of the successors and assigns of the Trustee and the Holders and, in the event of any transfer or assignment of rights by any Holder or the Trustee, the rights and privileges conferred upon that party in this Indenture and in the Notes shall automatically extend to and be vested in such transferee or assigns, all subject to the terms and conditions of this Indenture.

Except as set forth in Article IV and V hereof, and notwithstanding the provisions of this Section, nothing contained in this Indenture shall prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor, or will prevent the sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor.

Section 11.09 No Waiver. Neither a failure nor a delay on the part of either the Trustee or the Holders in exercising any right, power or privilege under this Article XI shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise of any right, power or privilege. The rights, remedies and benefits of the Trustee and the Holders herein expressly specified are cumulative and are not exclusive of any other rights, remedies or benefits which either may have under this Article XI at law, in equity, by statute or otherwise.

Section 11.10 Modification. No modification, amendment or waiver of any provision of this Article XI, nor the consent to any departure by the Guarantor therefrom, shall in any event be effective unless the same shall be in writing and signed by the Trustee, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on the Guarantor in any case shall entitle the Guarantor to any other or further notice or demand in the same, similar or other circumstance.

ARTICLE XII

MISCELLANEOUS

Section 12.01 Trust Indenture Act Controls. This Indenture is subject to the provisions of the TIA that are required to be a part of this Indenture, and shall, to the extent applicable, be governed by such provisions. If any provision of this Indenture modifies any TIA provision that may be so modified, such TIA provision shall be deemed to apply to this Indenture as so modified. If any provision of this Indenture excludes any TIA provision that may be so excluded, such TIA provision shall be excluded from this Indenture.

The provisions of TIA §§ 310 through 317 that impose duties on any Person (including the provisions automatically deemed included unless expressly excluded by this Indenture) are a part of and govern this Indenture, whether or not physically contained herein.

Section 12.02 Notices. Any notice or communication by the Company, any Guarantor or the Trustee to the others is duly given if in writing and delivered in Person or mailed by first class mail (registered or certified, return receipt requested), telex, telecopier or overnight air courier guaranteeing next day delivery, to the others' address.

If to the Company and/or any Guarantor:

Spectrum Brands, Inc.
Six Concourse Parkway, Suite 3300
Atlanta, Georgia 30328
Facsimile: 770-829-6298
Attention: General Counsel

with a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
One Beacon Street
Boston, Massachusetts 02108-3194
Facsimile: 617-305-4822
Attention: Margaret A. Brown, Esq.

If to the Trustee:

Wells Fargo Bank, N.A.
Corporate Trust Services
6th Street and Marquette Avenue
MAC N-9303-120
Minneapolis, MN 55479
Facsimile: 612-667-9825
Attention: Spectrum Brands Administrator

The Company, any Guarantor or the Trustee, by notice to the others may designate additional or different addresses for subsequent notices or communications.

All notices and communications (other than those sent to Holders) shall be deemed to have been duly given: (i) at the time delivered by hand, if personally delivered; (ii) five Business Days after being deposited in the mail, postage prepaid, if mailed; (iii) when answered back, (iv) if telexed; when receipt acknowledged, if telecopied; and (v) the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

Any notice or communication to a Holder shall be mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar. Any notice or communication shall also be so mailed to any Person described in TIA § 313(c), to the extent required by the TIA. Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Company mails a notice or communication to Holders, it shall mail a copy to the Trustee and each Agent at the same time.

Section 12.03 Communication by Holders of Notes with Other Holders of Notes. Holders may communicate pursuant to TIA § 312(b) with other Holders with respect to their rights under this Indenture or the Notes. The Company, the Trustee, the Registrar and anyone else shall have the protection of TIA § 312(c).

Section 12.04 Certificate and Opinion as to Conditions Precedent. Upon any request or application by the Company to the Trustee to take any action under this Indenture (other than under Section 2.02 hereof unless required by the TIA), the Company shall furnish to the Trustee:

(a) an Officers' Certificate in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 12.05 hereof) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied;

(b) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 12.05 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied; and

(c) where applicable, a certificate or opinion by an independent certified public accountant satisfactory to the Trustee that complies with TIA § 314(c).

Section 12.05 Statements Required in Certificate or Opinion. Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than a certificate provided pursuant to TIA § 314(a)(4)) shall comply with the provisions of TIA § 314(e) and shall include:

(a) a statement that the Person making such certificate or opinion has read such covenant or condition;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(c) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been satisfied; and

(d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been satisfied.

Section 12.06 Rules by Trustee and Agents. The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

Section 12.07 No Personal Liability of Directors, Officers, Employees and Stockholders. No director, officer, employee, agent, manager, member, incorporator, stockholder or other equityholder of the Company or any Guarantor, as such, shall have any liability for any obligations of the Company or the Guarantors under the Notes, the Note Guarantees, this Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. Such waiver may not be effective to waive liabilities under the federal securities laws.

Section 12.08 Governing Law. THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS INDENTURE, THE NOTES AND THE NOTE GUARANTEES.

Section 12.09 No Adverse Interpretation of Other Agreements. This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture. All agreements of each Guarantor in this Indenture shall bind its successors.

Section 12.10 Successors. All agreements of the Company in this Indenture and the Notes shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors. All agreements of each Guarantor in this Indenture shall bind its successors.

Section 12.11 Severability. In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 12.12 Counterpart Originals. The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

Section 12.13 Table of Contents, Headings, Etc.The Table of Contents, Cross-Reference Table and Headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

[Remainder of Page Left Blank; Signature Pages Follow]

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

SPECTRUM BRANDS, INC.

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Executive Vice President and Chief Financial Officer

TETRA HOLDING (US), INC.

By: /s/ James T. Lucke

Name: James T. Lucke
Title: Assistant Secretary

ROV HOLDING, INC.

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President

ROVCAL, INC.

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President and Treasurer

UNITED INDUSTRIES CORPORATION

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Executive Vice President, Treasurer and Chief Financial Officer

SCHULTZ COMPANY

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Officer

SPECTRUM NEPTUNE US HOLDCO CORPORATION

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Officer

UNITED PET GROUP, INC.

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Officer

DB ONLINE, LLC
By: United Pet Group, Inc., Its Sole Member

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Officer

SOUTHERN CALIFORNIA FOAM, INC.

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Officer

AQUARIA, INC.

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Officer

AQUARIUM SYSTEMS, INC.

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Officer

PERFECTO MANUFACTURING, INC.

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Officer

WELLS FARGO BANK, N.A., as trustee

By: /s/ Jane Y. Schweiger

Name: Jane Y. Schweiger
Title: Vice President

EXHIBIT A

[Face of Note]

[THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF; AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE; (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.12 OF THE INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY.]

No. ____ **$_____**

CUSIP: 84762L AB1

ISIN: S84762LAB18

SPECTRUM BRANDS, INC.

Variable Rate Toggle Senior Subordinated Notes Due 2013

Spectrum Brands, Inc. (the "*Company*"), for value received, promises to pay to CEDE & Co., or its registered assigns, the principal sum of $[*Amount of Note*], _____ Dollars or such other amount as indicated on the Schedule of Exchanges of Interests in the Global Notes attached hereto on October 2, 2013.

Interest Payment Dates: April 2 and October 2 of each year, starting on October 2, 2007.

Record Dates: March 15 and September 15.

Reference is hereby made to the further provisions of this Note set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

IN WITNESS WHEREOF, the Company has caused this Note to be signed manually or by facsimile by its duly authorized officers.

SPECTRUM BRANDS, INC.

By: _____

Name:
Title:

(Trustee's Certificate of Authentication)

This is one of the Variable Rate Toggle Senior Subordinated Notes Due 2013 referred to in the within-mentioned Indenture.

Dated:

WELLS FARGO BANK, N.A.
as Trustee

By: _____

Authorized Signatory

[Reverse Side of Note]

SPECTRUM BRANDS, INC.

Variable Rate Toggle Senior Subordinated Notes Due 2013

Capitalized terms used herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. Interest. The Company promises to pay interest on the principal amount and premium, if any, of this Note, at its option, (i) entirely in cash ("*Cash Interest*") or (ii) subject to the Minimum Equity Condition, entirely by increasing the principal amount of the outstanding Notes ("*PIK Interest,*" and together with Cash Interest, *"Forms of Interest Payment"* and each individually, a "*Form of Interest Payment*"). With respect to any Interest Period, interest shall accrue on the Notes at the Scheduled Rate per annum for the then current Form of Interest Payment from the date Notes were first issued pursuant to the Exchange Offer (the *"Issue Date"*) until Maturity. The Company shall pay interest semi-annually on April 2 and October 2 of each year, or if any such day is not a Business Day, on the next succeeding Business Day (each an "*Interest Payment Date*"). Interest on the Notes shall accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the Issue Date; *provided* that if there is no existing Default in the payment of interest, and if this Note is authenticated between a Record Date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date; *provided further* that the first Interest Payment Date shall be October 2, 2007. If on any Interest Election Date, the Exchange Act filings for the Company's most recently completed fiscal quarter to which such filings relate demonstrate that the Fixed Charge Coverage Ratio for the Company's most recently ended four full fiscal quarters ending on such fiscal quarter is above 2.0 to 1.0 (the"*Fixed Charge Coverage Ratio Test"*), the Company shall notify the Trustee on such Interest Election Date and the applicable interest rate shall be 1% per annum in excess of the Scheduled Rate for the next Interest Period.

The following is the schedule of Cash Interest rates (the *"Scheduled Cash Interest Rates"*):

Interest Period	**Percentage**
Date of this Indenture through April 1, 2007	11.00%
April 2, 2007 through October 1, 2007	11.25%
October 2, 2007 through April 1, 2008	11.50%
April 2, 2008 through October 1, 2008	12.00%
October 2, 2008 through April 1, 2009	12.50%
April 2, 2009 through October 1, 2009	12.75%
October 2, 2009 through April 1, 2010	13.50%
April 2, 2010 through October 1, 2010	13.75%
October 2, 2010 through April 1, 2011	14.00%
April 2, 2011 through October 1, 2011	14.25%
October 2, 2011 through April 1, 2012	14.50%
April 2, 2012 through October 1, 2012	14.75%
October 2, 2012 through April 1, 2013	15.00%
April 2, 2013 through October 1, 2013	15.25%

The following is the schedule of PIK Interest rates (together with the Scheduled Cash Interest Rates, the *"Scheduled Rates"* and each individually, a *"Scheduled Rate"*):

Interest Period	Percentage
Date of this Indenture through April 1, 2007	11.50%
April 2, 2007 through October 1, 2007	11.75%
October 2, 2007 through April 1, 2008	12.00%
April 2, 2008 through October 1, 2008	12.50%
October 2, 2008 through April 1, 2009	13.00%
April 2, 2009 through October 1, 2009	13.25%
October 2, 2009 through April 1, 2010	14.00%
April 2, 2010 through October 1, 2010	14.25%

In addition, the Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal and premium, if any, from time to time on demand at a rate that is 1% per annum in excess of the rate then in effect; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace periods) from time to time on demand at the same rate to the extent lawful. Interest shall be computed on the basis of a 360-day year of twelve 30-day months.

To elect the Form of Interest Payment with respect to each Interest Period, the Company will give the Trustee irrevocable Notice of Election on the second Trading Day preceding the first day of the applicable Interest Period (the *"Interest Election Date"*). The Trustee will promptly deliver a corresponding notice to the Holders. Notwithstanding anything herein to the contrary, the initial interest payment shall be a Cash Interest payment and any interest payments after October 1, 2010 shall also be in Cash Interest payments. In the absence of an election for any Interest Period, interest on the Notes shall be payable entirely as a Cash Interest payment.

2. Method of Payment. The Company shall pay interest on the Notes (except defaulted interest) to the Persons who are registered Holders of Notes at the close of business on the Record Date immediately preceding the Interest Payment Date, even if such Notes are canceled after such Record Date and on or before such Interest Payment Date, except as provided in Section 2.13 of the Indenture with respect to defaulted interest. The Notes shall be payable as to principal, premium, if any, and Cash Interest at the office or agency of the Company, or, at the option of the Company, payment of Cash Interest may be made by check mailed to the Holders at their addresses set forth in the register of Holders, and *provided* that payment by wire transfer of immediately available funds shall be required with respect to principal of, and Cash Interest and premium on, all Global Notes and all other Notes the Holders of which shall have provided wire transfer instructions to the Company or the Paying Agent. Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

PIK Interest shall be payable by increasing the principal amount of the outstanding Notes by an amount equal to the amount of PIK Interest for the applicable interest period (a *"PIK Payment"*). Following an increase in the principal amount of the outstanding Notes as a result of a PIK Payment, the Notes will accrue interest on such increased principal amount from and after the related interest payment date of such PIK Payment. The Company will not issue Notes in principal amount of less than $1.00. In the event that PIK Interest due to any Holder on an Interest Payment Date is not a round dollar amount, any fractional PIK Interest, if $ 0.50 or more, will be rounded up to the nearest dollar or, if $ 0.49 or less, will be rounded down to the nearest dollar. In connection with the payment of PIK Interest, the Company is entitled, without the consent of the Holders, to increase the outstanding principal amount of the Global Notes representing the Notes. References herein and in the Indenture to the "principal amount" of the Notes include any increase in the principal amount of the outstanding Notes as a result of a PIK Payment.

3. Paying Agent and Registrar. Initially, Wells Fargo Bank, N.A., the Trustee under the Indenture, shall act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Subsidiaries may act in any such capacity.

4. Indenture. The Company issued the Notes under an Indenture dated as of [ ], 2007 (the "*Indenture*") among the Company, the Guarantors and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended. The Notes are subject to all such terms, and Holders are referred to the Indenture and such Act for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling.

5. Guarantees. Subject to Article XI of the Indenture, the Notes will be guaranteed, jointly and severally, by all of the Domestic Subsidiaries of the Company.

6. Optional Redemption.

(a) At any time on or prior to September 30, 2007, the Company may redeem all or a part of the Notes, from time to time, upon not less than 30 nor more than 60 days notice, at the redemption price (expressed as a percentage of principal amount) of 110% plus accrued and unpaid interest, if any, to the applicable redemption date.

(b) In addition, at any time after September 30, 2007, the Company may redeem all or a part of the Notes, from time to time, upon not less than 30 nor more than 60 days notice, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest, if any, to the applicable redemption date, if redeemed during the twelve-month period beginning on October 1 of the years indicated below:

Year	Percentage
2007	109%
2008	102%
2009	101%
2010 and thereafter	100%

7. Repurchase at Option of Holder.

(a) At any time on or prior to September 30, 2007, if a Change of Control occurs, each Holder of Notes shall have the right pursuant to the offer described below (the "*Change of Control Offer*") to require the Company to repurchase all or any part (equal to $1.00 or an integral multiple thereof) of such Holder's Notes at an offer price in cash (expressed as a percentage of principal amount) of 110% plus accrued and unpaid interest, if any, to the Change of Control Payment Date.

(b) In addition, at any time after September 30, 2007, if a Change of Control occurs, each Holder of Notes shall have the right pursuant to a Change of Control Offer to require the Company to repurchase all or any part of such Holder's Notes at an offer price in cash (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest, if any, to the Change of Control Payment Date, if purchased during the twelve-month period beginning on October 2 of the years indicated below:

Year	Percentage
2007	109%
2008	102%
2009	101%
2010 and thereafter	100%

(c) Within 30 days following any Change of Control, the Company shall mail a notice to each Holder describing the transaction or transactions that constitute the Change of Control and which shall be no earlier than 30 days and no later than 60 days from the date such notice is mailed (the "*Change of Control Payment Date*"), pursuant to the procedures required by the Indenture and described in such notice.

8. Asset Sale Offers. Within 360 days after the receipt of any Net Proceeds from an Asset Sale, the Company may apply such Net Proceeds at its option: (i) to repay Senior Debt and, if the Senior Debt being repaid is revolving credit Indebtedness, to correspondingly reduce commitments with respect thereto; or (ii) to purchase Replacement Assets or make a capital expenditure in or that is used or useful in a Permitted Business. Pending the final applications of any such Net Proceeds, the Company may temporarily reduce revolving credit borrowings or otherwise invest such Net Proceeds in any manner that is not prohibited by the Indenture. Any Net Proceeds from Asset Sales that are not applied or invested as provided in the preceding paragraph will constitute "Excess Proceeds." Within 10 days after the aggregate amount of Excess Proceeds exceeds $10.0 million, the Company will make an offer (an "*Asset Sale Offer*") to all Holders of Notes and all holders of other Indebtedness that is *pari passu* with the Notes or any Note Guarantee containing provisions similar to those set forth in the Indenture with respect to offers to purchase with the proceeds of sales of assets to purchase the maximum principal amount of Notes and such other *pari passu* Indebtedness that may be purchased out of the Excess Proceeds at an offer price in cash equal to 100% of the principal amount thereof of the Notes and such other *pari passu* Indebtedness plus accrued and unpaid interest to the date of purchase, and will be payable in cash. If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Company may use such Excess Proceeds for any purpose not otherwise prohibited by the Indenture. If the aggregate principal amount of Notes and such other *pari passu* Indebtedness tendered into such Asset Sale Offer exceeds the amount of Excess Proceeds, the Trustee will select Notes and the agent for such other *pari passu* Indebtedness will such other *pari passu* Indebedness to be purchased on a *pro rata* basis (with such adjustments for authorized denominations) based on the principal amount of Notes and such other *pari passu* Indebtedness tendered. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds shall be reset at zero.

9. Selection and Notice of Redemption. If less than all of the Notes are to be redeemed or purchased in an offer to purchase at any time, the Trustee shall select the Notes to be redeemed or purchased among the Holders in compliance with the requirements of the principal national securities exchange, if any, on which the Notes are listed, or, if the Notes are not so listed, on a *pro rata* basis, by lot or in accordance with any other method the Trustee shall deem fair and appropriate. At least 30 days but not more than 60 days before a redemption date, the Company shall mail or cause to be mailed, by first class mail, a notice of redemption to each Holder whose Notes are to be redeemed at its registered address. The notice shall identify the Notes to be redeemed and shall state: (i) the redemption date; (ii) the redemption price; (iii) if any Note is being redeemed in part, the portion of the principal amount of such Note to be redeemed and that, after the redemption date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion of the original Note shall be issued in the name of the Holder thereof upon cancellation of the original Note; (iv) the name and address of the Paying Agent; (v) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price and become due on the date fixed for redemption; (vi) that, unless the Company defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the redemption date; (vii) the paragraph of the Notes and/or Section of the Indenture pursuant to which the Notes called for redemption are being redeemed; and (viii) that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Notes.

10. Denominations, Transfer, Exchange. The Notes are in registered form without coupons in denominations of $1.00 or integral multiples thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed or during the period between a record date and the corresponding Interest Payment Date.

11. Persons Deemed Owners. The registered Holder of a Note will be treated as its owner for all purposes.

12. Amendment, Supplement and Waiver. Subject to certain exceptions, the Indenture, the Note Guarantees, or the Notes may be amended or supplemented with the consent of the Holders of at least a majority in principal amount of the then outstanding Notes voting as a single class, and any existing default or compliance with any provision of the Indenture, the Note Guarantees, or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes, if any, voting as a single class. Without the consent of the Holders of at least 75% in principal amount of the Notes then outstanding voting as a single class (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, the Notes), an amendment or waiver may not amend or modify any, of the provisions of the Indenture or the related definitions affecting the subordination or ranking of the Notes or any Note Guarantee in any manner adverse to the holders of the Notes or any Note Guarantee. Without the consent of any Holder of a Note, the Indenture, the Note Guarantees, or the Notes may be amended or supplemented to cure any ambiguity, defect or inconsistency, to provide for uncertificated Notes in addition to or in place of certificated Notes, to provide for the assumption of the Company's obligations to Holders of the Notes in case of a merger or consolidation or sale of all or substantially all of the assets of the Company, to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights under the Indenture of any such Holder, to comply with the requirements of the SEC in order to effect or maintain the qualification of the Indenture under the Trust Indenture Act or to allow any Subsidiary to guarantee the Notes, to provide for the issuance of Additional Notes in accordance with the Indenture, or to allow any Guarantor to execute a supplemental indenture to the Indenture with respect to the Notes.

13. Defaults and Remedies. In the case of an Event of Default arising from certain events of bankruptcy or insolvency, with respect to the Company or any of its Restricted Subsidiaries that is a Significant Subsidiary, all outstanding Notes will become due and payable immediately without further action or notice. If any other Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the Notes may declare all the Notes to be due and payable immediately by notice in writing to the Company specifying the Event of Default. Holders of the Notes may not enforce the Indenture or the Notes except as provided in the Indenture. Subject to certain limitations, Holders of a majority in principal amount of the then outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal, premium, if any, or interest) if it determines that withholding notice is in their interest. The Holders of a majority in aggregate principal amount of the Notes then outstanding by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default or Event of Default and its consequences under the Indenture except a continuing Default or Event of Default in the payment of interest or premium, if any, on, or the principal of, the Notes.

In the case of any Event of Default occurring by reason of any willful action or inaction taken or not taken by or on behalf of the Company with the intention of avoiding payment of the premium that the Company would have had to pay if the Company then had elected to redeem the Notes pursuant to Section 3.07 of the Indenture concerning optional redemption, an equivalent premium shall also become and be immediately due and payable to the extent permitted by law upon the acceleration of the Notes.

14. Trustee Dealings with Company. The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee.

15. Subordination. The Company agrees, and each Holder by accepting a Note agrees, that the Indebtedness evidenced by the Notes is subordinated in right of payment, to the extent and in the manner provided in Article X of the Indenture, to the prior payment in full in cash or Cash Equivalents of all Senior Debt (whether outstanding on the date of the Indenture or hereafter created, incurred, assumed or guaranteed), and that the subordination is for the benefit of the holders of Senior Debt.

16. No Recourse Against Others. No past, present or future director, officer, employee, incorporator, stockholder or agent of the Company or any Guarantor, as such, shall have any liability for any obligations of the Company or any Guarantor under the Notes, any Note Guarantees, the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of the Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. Such waiver may not be effective to waive liabilities under the federal securities laws.

17. Authentication. This Note shall not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

18. CUSIP Numbers. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes and the Trustee may use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any, notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

19. The Company shall furnish to any Holder upon written request, and without charge a copy of the Indenture. Requests may be made to:

If to the Company and/or any Guarantor:

Spectrum Brands, Inc.
Six Concourse Parkway, Suite 3300
Atlanta, Georgia 30328
Facsimile: (770) 829-6298
Attention: General Counsel

with a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
One Beacon Street
Boston, Massachusetts 02108-3194
Facsimile: 617-305-4822
Attention: Margaret A. Brown, Esq.

ASSIGNMENT FORM

To assign this Note, fill in the form below: (I) or (we) assign and transfer this Note to

(Insert Assignee's Legal Name)

(Insert Assignee's Social Security Number or Taxpayer Identification Number.)

(Print or Type Assignee's Name, Address and Zip Code)

and irrevocably appoint _____
to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date:_____

Your Signature: _____

(Sign exactly as your name appears on the face of this Note)

Signature Guarantee.*

* Participant is recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 4.10 or 4.14 of the Indenture, check the box below:

G Section 4.10 G Section 4.14

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 4.10 or Section 4.14 of the Indenture, state the amount you elect to have purchased: $_____

Date: _____

Your Signature: _____

(Sign exactly as your name appears on the face of this Note)

Signature Guarantee.*

Tax Identification No: _____

* Participant is recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE

The following exchanges of a part of this Global Note for an interest in another Global Note or of another Global Note for an interest in this Global Note, have been made:

Date of Exchange	Amount of Decrease in Principal of this Global Note	Amount of Increase in Principal of this Global Note	Principal Amount of this Global Note Following such decrease (or increase)	Signature of Authorized Officer of Trustee or Note Custodian

EXHIBIT B

FORM OF NOTICE OF ELECTION

[*insert date*]

Wells Fargo Bank, N.A.
Corporate Trust Services
6th Street and Marquette Avenue
MAC N-9303-120
Minneapolis, MN 55479
Facsimile: 612-667-9825
Attention: Spectrum Brands Administrator

Ladies and Gentlemen:

The undersigned, SPECTRUM BRANDS, INC., a Wisconsin corporation (the "*Company*"), refers to the Indenture, dated as of ___, 2007, among the Company, the Guarantors and Wells Fargo Bank, N.A., as trustee ("*Trustee*"). Pursuant to the terms of the Indenture and the Notes, the Company hereby gives you, as Trustee, irrevocable notice that the Company requests the following Form of Interest Payment for the Interest Period specified below:

(i) Form of Interest Payment: [Cash Interest][PIK Interest]

(ii) Interest Period beginning on: _____.

Very truly yours,

SPECTRUM BRANDS, INC.

By: _____

Name:
Title:

EXHIBIT C

FORM OF NOTATION OF GUARANTEE

For value received, each Guarantor (which term includes any successor Person under the Indenture) has, jointly and severally, unconditionally guaranteed, to the extent set forth in the Indenture and subject to the provisions in the Indenture dated as of [ ], 2007 (the "*Indenture*") among Spectrum Brands, Inc. (the "*Company*"), the Guarantors named therein and Wells Fargo Bank, N.A., as trustee (the "*Trustee*"), (a) the due and punctual payment of the principal of, premium, if any, and interest on the Notes (as defined in the Indenture), whether at maturity, by acceleration, redemption or otherwise, the due and punctual payment of interest on overdue principal and premium, and, to the extent permitted by law, interest, and the due and punctual performance of all other obligations of the Company to the Holders or the Trustee all in accordance with the terms of the Indenture and (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that the same shall be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at Stated Maturity, by acceleration or otherwise. The obligations of the Guarantors to the Holders of Notes and to the Trustee pursuant to the Note Guarantee and, the Indenture are expressly set forth in Article XI of the Indenture and reference is hereby made to the Indenture for the precise terms of the Note Guarantee. Each Holder of a Note, by accepting the same, (a) agrees to and shall be bound by such provisions, (b) authorizes and directs the Trustee, on behalf of such Holder, to take such action as may be necessary or appropriate to effectuate the subordination as provided in the Indenture and (c) appoints the Trustee attorney-in fact of such Holder for such purpose; *provided*, *however*, that the Indebtedness evidenced by this Note Guarantee shall cease to be so subordinated and subject in right of payment upon any defeasance of this Note in accordance with the provisions of the Indenture. Capitalized terms used herein but not otherwise defined shall have the meanings assigned to them in the Indenture.

IN WITNESS HEREOF, the Guarantors have caused this Notation of Guarantee to be executed by a duly authorized officer.

[Name of Guarantor]

By: _____

Name:
Title:

FORM OF SUPPLEMENTAL INDENTURE
TO BE DELIVERED BY SUBSEQUENT GUARANTORS

Supplemental Indenture (this "*Supplemental Indenture*"), dated as of _____, among _____ (the "*Guaranteeing Subsidiary*"), Spectrum Brands, Inc., a Wisconsin Corporation (the "*Company*"), the Guarantors (as defined in the Indenture referred to herein) and Wells Fargo Bank, N.A., as Trustee (the "*Trustee*").

WITNESSETH

WHEREAS, the Company and the Guarantors have heretofore executed and delivered to the Trustee an indenture (the "*Indenture*"), dated as of [ ], 2007 providing for the issuance of an unlimited aggregate principal amount of Variable Rate Toggle Senior Subordinated Notes Due 2013 (the "*Notes*");

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall unconditionally guarantee all of the Company's obligations under the Notes and the Indenture on the terms and conditions set forth herein (the "*Note Guarantee*"); and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders of the Notes as follows:

1. Capitalized Terms. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

2. Agreement to Guarantee. The Guaranteeing Subsidiary hereby agrees as follows:

(a) Along with all other Guarantors, to jointly and severally Guarantee to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of the Indenture, the Notes or the obligations of the Company hereunder or thereunder, that:

(i) the principal of and interest on the Notes shall be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful (subject in all cases to any applicable grace period provided in the Indenture), and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder shall be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and

(ii) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, the same shall be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at Stated Maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors shall be jointly and severally obligated to pay the same immediately.

(b) The obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or the Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance that might otherwise constitute a legal or equitable discharge or defense of a guarantor.

(c) Subject to Section 6.06 of the Indenture and to the extent permitted by applicable law, each Guarantor hereby waives: diligence presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever.

(d) Subject to Section 6.06 of the Indenture and to the extent permitted by applicable law, this Note Guarantee shall not be discharged except by complete performance of the obligations contained in the Notes and the Indenture.

(e) If any Holder or the Trustee is required by any court or otherwise to return to the Company, the Guarantors, or any custodian, trustee, liquidator or other similar official acting in relation to either the Company or the Guarantors, any amount paid by either to the Trustee or such Holder, this Note Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.

(f) The Guaranteeing Subsidiary shall not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby.

(g) As between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article VI of the Indenture for the purposes of this Note Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article VI of the Indenture, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantors for the purpose of this Note Guarantee.

(h) The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Note Guarantee.

(j) Pursuant to Section 11.03 of the Indenture, after giving effect to any maximum amount and any other contingent and fixed liabilities of the Guarantor that are relevant under any applicable Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under Article XI of the Indenture, the Trustee, the Holders and the Guarantor irrevocably agree that the obligation of such Guarantor shall result in the obligations of such Guarantor under its Note Guarantee not constituting a fraudulent transfer or conveyance.

3. Subordination. The Obligations of the Guaranteeing Subsidiary under its Note Guarantee pursuant to this Supplemental Indenture shall be junior and subordinated to the Senior Debt of the Guaranteeing Subsidiary on the same basis as the Notes are junior and subordinated to the Senior Debt of the Company. For the purposes of the foregoing sentence, the Trustee and the Holders shall have the right to receive and/or retain payments by the Guaranteeing Subsidiary only at such time as they may receive and/or retain payments in respect of the Notes pursuant to the Indenture, including Article X thereof.

4. Execution and Delivery. Each Guaranteeing Subsidiary agrees that the Note Guarantees shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Note Guarantee.

5. Guaranteeing Subsidiary May Consolidate, Etc., on Certain Terms. Except as otherwise provided in Section 11.05 of the Indenture; a Guarantor may not sell or otherwise dispose of all or substantially all of its assets, or consolidate with or merge with or into (whether or not such Guarantor is the surviving Person) another Person unless:

(a) immediately after giving effect to such transaction, no Default or Event of Default exists; and

(b) either:

(i) the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger is a corporation, organized or existing under (i) the laws of the United States, any state thereof or the District of Columbia or (ii) the laws of the same jurisdiction as that Guarantor and, in each case, assumes all the obligations of that Guarantor under the Indenture, its Note Guarantee pursuant to a supplemental indenture satisfactory to the Trustee; or

(ii) in the case of a Subsidiary Guarantor, such sale or other disposition (A) complies with Section 4.10 of the Indenture, including the application of the Net Proceeds therefrom and (B) is to a Person that is not a Restricted Subsidiary of the Company.

In case of any such consolidation, merger, sale or conveyance and upon the assumption by the successor Person, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the Note Guarantee endorsed upon the Notes and the due and punctual performance of all of the obligations and conditions of the Indenture to be performed by a Guarantor, such successor Person shall succeed to and be substituted for a Guarantor with the same effect as if it had been named herein as a Guarantor. Such successor Person thereupon may cause to be signed any or all of the Note Guarantees to be endorsed upon all of the Notes issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee. All the Note Guarantees so issued shall in all respects have the same legal rank and benefit under the Indenture as the Note Guarantees theretofore and thereafter issued in accordance with the terms of the Indenture as though all of such Note Guarantees had been issued at the date of the execution hereof.

Except as set forth in Articles IV and V of the Indenture, and notwithstanding clauses (a) and (b) above, nothing contained in the Indenture or in any of the Notes shall prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor, or shall prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor.

6. Releases. (a) Any Guarantor shall be released and relieved of any obligations under its Note Guarantee, (i) in connection with any sale or other disposition of all or substantially all of the assets of that Guarantor (including by way of merger or consolidation) to a Person that is not (either before or after giving effect to such transaction) a Restricted Subsidiary of the Company, if the sale or other disposition of all or substantially all of the assets of that Guarantor complies with Section 4.10 of the Indenture, including the application of the Net Proceeds therefrom; (ii) in connection with any sale of all of the Capital Stock of a Guarantor to a Person that is not (either before or after giving effect to such transaction) a Restricted Subsidiary of the Company, if the sale of all such Capital Stock of that Guarantor complies with Section 4.10 of the Indenture, including the application of the Net Proceeds therefrom; (iii) if the Company designates any Restricted Subsidiary that is a Guarantor as an Unrestricted Subsidiary in accordance with the terms hereof; or (iv) in connection with any sale of Capital Stock of a Guarantor to a Person that results in the Guarantor no longer being a Subsidiary of the Company, if the sale of such Capital Stock of that Guarantor complies with Section 4.10, including the application of the Net Proceeds therefrom. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the provisions of the Indenture, including without limitation Section 4.10 hereof, the Trustee shall execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Note Guarantee.

(b) Any Guarantor not released from its obligations under its Note Guarantee shall remain liable for the full amount of principal of and interest on the Notes and for the other obligations of any Guarantor under the Indenture as provided in Article X of the Indenture.

7. No Recourse Against Others. No past, present or future director, officer, employee, incorporator, stockholder or agent of the Guaranteeing Subsidiary, as such, shall have any liability for any obligations of the Company or any Guaranteeing Subsidiary under the Notes, any Note Guarantees, the Indenture or this Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of the Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. Such waiver may not be effective to waive liabilities under the federal securities laws.

8. NEW YORK LAW TO GOVERN. THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS SUPPLEMENTAL INDENTURE.

9. Counterparts. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

10. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

11. Trustee. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary and the Company.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed and attested, all as of the date first above written.

Dated: _____

[Guaranteeing Subsidiary]

By: _____

Name:
Title:

[Name of Guarantor]

By: _____

Name:
Title:

SPECTRUM BRANDS, INC.

By: _____

Name:
Title:

WELLS FARGO BANK, N.A., AS TRUSTEE

By: _____

Name:
Title:

SCHEDULE I

GUARANTORS

Tetra Holding (US), Inc.
ROV Holding, Inc.
ROVCAL, Inc.
United Industries Corporation
Schultz Company
Spectrum Neptune US Holdco Corporation
United Pet Group, Inc.
DB Online, LLC
Southern California Foam, Inc.
Aquaria, Inc.
Aquarium Systems, Inc.
Perfecto Manufacturing, Inc.

SPECTRUM BRANDS, INC.

8 1/2% SENIOR SUBORDINATED NOTES DUE 2013

FIFTH SUPPLEMENTAL INDENTURE
Dated as of March 29, 2007

to

INDENTURE
Dated as of September 30, 2003

U.S. BANK
NATIONAL ASSOCIATION,
as Trustee

FIFTH SUPPLEMENTAL INDENTURE

FIFTH SUPPLEMENTAL INDENTURE (this "*Fifth Supplemental Indenture*"), dated as of March 29, 2007 among Spectrum Brands, Inc., a Wisconsin corporation (formerly, Rayovac Corporation) (the "*Company*"), the Guarantors (as defined in the Indenture referred to herein) and U.S. Bank National Association, as Trustee (the "*Trustee*").

WITNESSETH

WHEREAS, the Company and the Guarantors have heretofore executed and delivered to the Trustee an indenture, dated as of September 30, 2003, as supplemented by the Supplemental Indenture dated as of October 24, 2003, the Second Supplemental Indenture dated as of January 20, 2005, the Third Supplemental Indenture dated as of February 7, 2005 and the Fourth Supplemental Indenture dated as of May 3, 2005 (the "*Indenture*"), providing for the issuance of the Company's 8 1/2% Senior Subordinated Notes due 2013 (the "*Notes*"); and

WHEREAS, the Company has offered to exchange the Notes for new Variable Rate Toggle Senior Subordinated Notes due 2013 (the *"Offer"*) and have solicited the consents of the Holders to certain amendments to the provisions of the Indenture and a waiver of certain alleged or existing defaults, pursuant to the Offering Circular and Consent Solicitation Statement, dated March 16, 2007 (the *"Offering Circular"*); and

WHEREAS, pursuant to Section 9.02 of the Indenture, the Trustee is authorized to execute and deliver this Fifth Supplemental Indenture;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Company, the Guarantors and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders of the Notes as follows:

1. Capitalized Terms. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

2. Amendments. Subject to paragraph 9 hereof, the Indenture is hereby amended as follows:

(a) Section 4.03, the covenant entitled "Reports," shall be amended in its entirety to read "SECTION 4.03. Intentionally Omitted.";

(b) Section 4.04, the covenant entitled "Compliance Certificate," shall be amended in its entirety to read "SECTION 4.04. Intentionally Omitted.";

(c) Section 4.05, the covenant entitled “Taxes,” shall be amended in its entirety to read “SECTION 4.05. Intentionally Omitted.”;

(d) Section 4.06, the covenant entitled “Stay, Extension and Usury Laws,” shall be amended in its entirety to read “SECTION 4.06. Intentionally Omitted.”;

(e) Section 4.07, the covenant entitled “Restricted Payments,” shall be amended in its entirety to read “SECTION 4.07. Intentionally Omitted.”;

(f) Section 4.08, the covenant entitled “Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries,” shall be amended in its entirety to read “SECTION 4.08. Intentionally Omitted.” ;

(g) Section 4.09, the covenant entitled “Incurrence of Indebtedness and Issuance of Preferred Stock,” shall be amended in its entirety to read “SECTION 4.09. Intentionally Omitted.”;

(h) Section 4.10, the covenant entitled “Asset Sales,” shall be amended in its entirety to read “SECTION 4.10. Intentionally Omitted.”;

(i) Section 4.11, the covenant entitled “Transactions with Affiliates,” shall be amended in its entirety to read “SECTION 4.11. Intentionally Omitted.”;

(j) Section 4.12, the covenant entitled “Liens,” shall be amended in its entirety to read “SECTION 4.12. Intentionally Omitted.”;

(k) Section 4.13, the covenant entitled “Corporate Existence,” shall be amended in its entirety to read “SECTION 4.13. Intentionally Omitted.”;

(l) Section 4.14, the covenant entitled “Offer to Repurchase Upon Change of Control,” shall be amended in its entirety to read “SECTION 4.14. Intentionally Omitted.”;

(m) Section 4.15, the covenant entitled “Limitation on Senior Subordinated Debt,” shall be amended in its entirety to read “SECTION 4.15. Intentionally Omitted.”;

(n) Section 4.16, the covenant entitled “Designation of Restricted and Unrestricted Subsidiaries,” shall be amended in its entirety to read “SECTION 4.16. Intentionally Omitted.”;

(o) Section 4.17, the covenant entitled “Payments for Consent,” shall be amended in its entirety to read “SECTION 4.17. Intentionally Omitted.”;

(p) Section 4.18, the covenant entitled “Business Activities,” shall be amended in its entirety to read “SECTION 4.18. Intentionally Omitted.”;

(q) Section 4.19, the covenant entitled “Limitation on Issuances and Sales of Equity Interests in Restricted Subsidiaries,” shall be amended in its entirety to read “SECTION 4.19. Intentionally Omitted.”;

(r) Section 4.20, the covenant entitled “Additional Note Guarantees,” shall be amended in its entirety to read “SECTION 4.20. Intentionally Omitted.”;

(s) Section 5.01, entitled “Merger, Consolidation, or Sale of Assets,” shall be amended in its entirety to read “SECTION 5.01 Intentionally Omitted.”;

(t) Section 5.02, entitled “Successor Corporation Substituted,” shall be amended in its entirety to read “SECTION 5.02. Intentionally Omitted.”; and

(u) Subsections (v) and (vi) of Section 6.01 relating to “Events of Default,” shall be amended in their entirety to read “(v) Intentionally Omitted” and “(vi) Intentionally Omitted.”

Nothing in this Supplemental Indenture shall be deemed to delete any provision from the Indenture to the extent that it is required or deemed to be included by operation of the TIA.

3. Waiver. Subject to paragraph 9 hereof, to the fullest extent permitted by the Indenture, any Alleged Default (as defined in the Offering Circular) is hereby waived.

4. GOVERNING LAW. THE INTERNAL LAWS OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS FIFTH SUPPLEMENTAL INDENTURE BUT WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

5. Severability. In case any provision of this Fifth Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

6. Counterparts. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. Delivery of an executed counterpart of a signature page to this Supplemental Indenture by facsimile or electronic PDF shall be effective as delivery of a manually executed counterpart of this Supplemental Indenture.

7. No Modification. Except as expressly waived, amended or supplemented hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Fifth Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder shall be bound hereby and entitled to the benefits hereof.

8. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

9. Effectiveness. This Fifth Supplemental Indenture shall become effective on and as of the date and time that the counterparts hereto shall have been executed and delivered by each of the parties hereto (the *"Effective Time"*). On or after the Effective Time, on the earliest date that Exchange Consideration (as defined in the Offering Circular) has been issued pursuant to the Offer, the Fifth Supplemental Indenture will become operative as of the date hereof.

10. Trustee. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Fifth Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guarantors and the Company.

[Remainder of this Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this Fifth Supplemental Indenture to be duly executed and attested, all as of the date first above written.

TETRA HOLDING (US), INC.

By: /s/ James T. Lucke

Name: James T. Lucke
Title: Assistant Secretary

ROV HOLDING, INC.

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President

ROVCAL, INC.

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President and Treasurer

UNITED INDUSTRIES CORPORATION

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Executive Vice President, Treasurer and Chief Financial Officer

SCHULTZ COMPANY

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Officer

SPECTRUM NEPTUNE US HOLDCO CORPORATION

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Officer

UNITED PET GROUP, INC.

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Officer

DB ONLINE, LLC
By: United Pet Group, Inc., Its Sole Member

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Officer

SOUTHERN CALIFORNIA FOAM, INC.

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Officer

AQUARIA, INC.

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Office

AQUARIUM SYSTEMS, INC.

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Office

PERFECTO MANUFACTURING, INC.

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Office

SPECTRUM BRANDS, INC.

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Executive Vice President and Chief Financial Officer

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE

By: /s/ Richard Proksoch

Name: Richard Prokosch
Title: Vice President

[Signature Page to Fifth Supplemental Indenture]

CREDIT AGREEMENT

dated as of March 30, 2007,

among

SPECTRUM BRANDS, INC.,

as the Borrower,

GOLDMAN SACHS CREDIT PARTNERS L.P.,

as the Administrative Agent, the Collateral Agent and the Syndication Agent

WACHOVIA BANK, NATIONAL ASSOCIATION,

as the Deposit Agent,

BANK OF AMERICA, N.A.,

as an LC Issuer

and

the Lenders Party Hereto

GOLDMAN SACHS CREDIT PARTNERS L.P.

and

BANC OF AMERICA SECURITIES LLC,

as Joint Lead Arrangers and Joint Bookrunners

TABLE OF CONTENTS

SCHEDULES

EXHIBITS

CREDIT AGREEMENT

This CREDIT AGREEMENT (this "***Agreement***") is entered into as of March 30, 2007, among Spectrum Brands, Inc., a Wisconsin corporation (the "***Borrower***"), each lender from time to time party hereto (each, a "***Lender***"), Goldman Sachs Credit Partners L.P. ("***GSCP***"), as the Administrative Agent, the Collateral Agent and the Syndication Agent, Wachovia Bank, National Association, as the Deposit Agent, and Bank of America, N.A., as an LC Issuer.

The parties hereto covenant and agree as follows:

ARTICLE I

DEFINITIONS AND ACCOUNTING TERMS

Section 1.01. Defined Terms. As used in this Agreement, the following terms shall have the meanings set forth below:

"***2013 New Indenture***" means the Indenture, dated as of March 30, 2007, among the Borrower, the guarantors named therein and Wells Fargo Bank, N.A. as trustee.

"***2013 New Notes***" means the Variable Rate Toggle Pay-in-Kind Senior Subordinated Notes due 2013 issued pursuant to the 2013 New Indenture in connection with the Exchange Offer.

"***2013 Original Indenture***" means the Indenture, dated as of September 30, 2003, among the Borrower, the guarantors named therein and U.S. Bank National Association, as trustee, as heretofore supplemented.

"***2013 Original Notes***" means the 8-1/2% Senior Subordinated Notes of the Borrower due 2013, issued pursuant to the 2013 Original Indenture.

"***2013 Supplemental Indenture***" means the Supplemental Indenture to the 2013 Original Indenture, dated as of March 30, 2007, among the Borrower, the guarantors named therein and the U.S. Bank National Association, as trustee, entered into in connection with the Exchange Offer, and any other Supplemental Indenture to the 2013 Original Indenture executed in connection with the Exchange Offer.

"***2015 Indenture***" means the Indenture, dated as of February 7, 2005, among the Borrower, the guarantors named therein and U.S. Bank National Association, as trustee.

"***2015 Notes***" means the 7-3/8% Senior Subordinated Notes of the Borrower due 2015, issued pursuant to the 2015 Indenture.

"***ABL Collateral***" has the meaning specified in the ABL Intercreditor Agreement.

"***ABL Intercreditor Agreement***" means an intercreditor agreement substantially in the form of Exhibit E hereto, with such modifications thereto as may be agreed to (a) by the Administrative Agent, if, in the judgment of the Administrative Agent, such modifications would not be adverse to the interests of the Lenders in any material respect, or (b) the Required Lenders.

"***Acceptable Bank***" has the meaning specified in the definition of "Cash Equivalents".

"***Acquisition***" means any transaction or series of related transactions by the Borrower or its Subsidiaries for the purpose of, or resulting directly or indirectly in, (a) the acquisition of all or substantially all of the assets of a Person, or of any business or division of a Person, (b) the acquisition of more than 50% of the capital stock, partnership interests, membership interests or equity of any Person, or otherwise causing any Person to become a Subsidiary or (c) a merger or consolidation or any other combination with another Person (other than a Person that is a Subsidiary).

"***Administrative Agent***" means GSCP, in its capacity as the administrative agent under this Agreement, or any successor administrative agent.

"***Administrative Agent's Office***" means the Administrative Agent's address and, as appropriate, account set forth on Schedule 10.02, or such other address or account as the Administrative Agent may from time to time notify to the Borrower and the Lenders.

"***Administrative Questionnaire***" means an Administrative Questionnaire in a form supplied by the Administrative Agent.

"***Affiliate***" means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

"***Agents***" means, collectively, the Administrative Agent, the Collateral Agent, the Deposit Agent and the Syndication Agent.

"***Agreement***" means this Credit Agreement.

"***Applicable Percentage***" means (a) in respect of the Dollar Term B Facility, with respect to any Dollar Term B Lender at any time, the percentage (carried out to the ninth decimal place) of the Dollar Term B Facility represented by (i) on or prior to the Closing Date, such Dollar Term B Lender's Dollar Term B Commitment at such time and (ii) thereafter, the aggregate principal amount of such Dollar Term B Lender's Dollar Term B Loans at such time, (b) in respect of the Dollar Term B II Facility, with respect to any Dollar Term B II Lender at any time, the percentage (carried out to the ninth decimal place) of the Dollar Term B II Facility represented by (i) on or prior to the Closing Date, such Dollar Term B II Lender's Dollar Term B II Commitment at such time and (ii) thereafter, the aggregate principal amount of such Dollar Term B II Lender's Dollar Term B II Loans at such time, (c) in respect of the Euro Term Facility, with respect to any Euro Term Lender at any time, the percentage (carried out to the ninth decimal place) of the Euro Term Facility represented by (i) on or prior to the Closing Date, such Euro Term Lender's Euro Term Commitment at such time and (ii) thereafter, the aggregate principal amount of such Euro Term Lender's Euro Term Loans at such time and (d) in respect of the LC Facility, with respect to any LC Lender at any time, the percentage (carried out to the ninth decimal place) of the LC Facility represented by (i) on or prior to the Closing Date, such LC Lender's LC Commitment at such time and (ii) thereafter, such LC Lender's LC Deposit at such time (and if the LC Deposits have been returned to the LC Lenders or applied to reimburse LC Disbursements, the Applicable Percentage in respect of the LC Facility shall be determined based upon the LC Deposits most recently in effect, giving effect to any assignments). The initial Applicable Percentage of each Lender in respect of each Facility is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable.

"Applicable Rate" means (a) in the case of Dollar Term Loans, (i) 4.00% per annum with respect to Eurodollar Rate Loans and (ii) 3.00% per annum with respect to Base Rate Loans and (b) in the case of Euro Term Loans, 4.50% per annum.

"***Approved Electronic Communications***" means any notice, communication, information, document or other material that any Loan Party provides to the Administrative Agent pursuant to any Loan Document or the transactions contemplated therein that is distributed to the Lenders and the LC Issuers by means of electronic communications pursuant to Section 10.02(b).

"***Arrangers***" means GSCP and Banc of America Securities LLC, in their capacities as joint lead arrangers and joint bookrunners for the Facilities.

"***Assignment and Assumption***" means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required under Section 10.06(d)), and accepted by the Administrative Agent, substantially in the form of Exhibit A or any other form approved by the Administrative Agent.

"***Assignment Effective Date***" has the meaning specified in Section 10.06(c).

"***Attributable Indebtedness***" means, on any date, (a) in respect of any Capitalized Lease of any Person, the capitalized amount of the remaining lease thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease or similar payments under the relevant lease or other applicable agreement or instrument that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease or other agreement or instrument were accounted for as a Capitalized Lease and (c) all Synthetic Debt of such Person as of such date.

"***Average Dollar Equivalent***" means, as of any date of determination in relation to any Indebtedness outstanding on such date denominated in a currency other than Dollars, the amount of Dollars that could be purchased with an amount of such currency equal to the amount of such Indebtedness using the average of the foreign exchange spot rates of JPMorgan Chase Bank, N.A., or another commercial bank reasonably satisfactory to the Administrative Agent, on the last Business Day of each of the 12 calendar months preceding such date.

"***Base Rate***" means, for any day, a fluctuating rate per annum equal to the higher of (a) the Federal Funds Rate in effect on such day plus 1/2 of 1% and (b) the Prime Rate in effect on such day. Any change in the Base Rate due to a change in the Federal Funds Rate or the Prime Rate shall be effective on the effective day of such change in the Federal Funds Rate or the Prime Rate, respectively.

"***Base Rate Loan***" means a Loan that bears interest based on the Base Rate.

"***Borrower***" has the meaning specified in the introductory paragraph hereto.

"***Borrowing***" means a Dollar Term B Borrowing, a Dollar Term B II Borrowing or a Euro Term Borrowing, as the context may require.

"***Business Day***" means any day other than (a) a Saturday, Sunday or other day on which commercial banks in New York are authorized to close under the Laws of New York or are in fact closed in the state where the Administrative Agent's Office is located, (b) if such day relates to a Eurocurrency Rate Loan, a day on which banks are not open for general business in London and (c) if such day relates to a Eurocurrency Rate Loan denominated other than in Euro, a day on which banks are not open for general business in the principal financial center of the country of that currency or, if such day relates to a Eurocurrency Rate Loan denominated in Euros, any day that is not a TARGET Day.

"***Capital Expenditures***" means, with respect to any Person for any period, all expenditures that, in accordance with GAAP, would be required to be capitalized and shown on the consolidated balance sheet of the Borrower, but excluding expenditures made with Net Cash Proceeds of Dispositions that are reinvested as provided in Section 2.04(b)(ii) or in connection with the replacement, substitution, restoration or trade-in of assets to the extent financed (a) from insurance proceeds (or other similar recoveries) paid on account of the loss of or damage to the assets being replaced or restored, (b) with awards of compensation arising from the taking by eminent domain or condemnation of the assets being replaced or (c) with a credit by the seller of such assets for assets being contemporaneously traded in.

"***Capitalized Leases***" means all leases that have been or should be, in accordance with GAAP, recorded as capitalized leases.

"***Cash Collateral Account***" means a blocked deposit account of the Borrower at a commercial bank that is in the name of the Administrative Agent and under the sole dominion and control of the Administrative Agent and in which the Administrative Agent has a perfected security interest, all in a manner reasonably satisfactory to the Administrative Agent.

"***Cash Equivalents***" means any of the following types of Investments:

(a) readily marketable obligations issued or directly and fully guaranteed or insured by the United States of America, an OECD Member, any member of the European Economic Union or any agency or instrumentality thereof having maturities of not more than 365 days from the date of acquisition thereof; provided that the full faith and credit of the United States of America, such OECD Member or such member of the European Economic Union is pledged in support thereof;

(b) time deposits with, or insured certificates of deposit or bankers' acceptances of, any commercial bank that (each such bank, an "***Acceptable Bank***") (i) (A) is a Lender, (B) is organized under the laws of the United States of America, any state thereof or the District of Columbia or is the principal banking subsidiary of a bank holding company organized under the laws of the United States of America, any state thereof or the District of Columbia, and is a member of the Federal Reserve System or (C) is a member of the applicable central bank of any OECD Member or any member of the European Economic Union, (ii) issues (or the parent of which issues) commercial paper rated as described in clause (c) of this definition and (iii) has combined capital and surplus of at least $250,000,000 (or the equivalent in the applicable currency), in each case with maturities of not more than 365 days from the date of acquisition thereof;

(c) commercial paper issued by any Person organized under the laws of any state of the United States of America or the District of Columbia, any member state of the European Economic Union or any OECD Member or any Acceptable Bank and rated at least "Prime-1" (or the then equivalent grade) by Moody's or Fitch or at least "A-1" (or the then equivalent grade) by S&P, or guaranteed by any industrial company with long-term unsecured debt rating (at the time of investment) of at least Aa by Moody's or Fitch or at least AA by S&P, in each case with maturities of not more than 365 days from the date of acquisition thereof;

(d) investments, classified in accordance with GAAP as current assets of the Borrower or any of its Subsidiaries, in money market investment programs that are administered by financial institutions that have the highest rating obtainable from either Moody's or S&P, and the portfolios of which are limited solely to investments of the character, quality and maturity described in clauses (a), (b) and (c) of this definition;

(e) repurchase agreements with any Lender or any primary dealer maturing within 365 days from the date of investment that are fully collateralized by investment instruments that would otherwise be Cash Equivalents; provided that the terms of such repurchase agreements comply with the guidelines set forth in the Federal Financial Institutions Examination Council Supervisory Policy — Repurchase Agreements of Depository Institutions With Securities Dealers and Others, as adopted by the Comptroller of the Currency on October 31, 1985;

(f) sterling bills of exchange eligible for rediscount at the Bank of England and accepted by an Acceptable Bank (or their dematerialized equivalents);

(g) any other debt security approved by the Required Lenders; and

(h) any investment made by a Foreign Subsidiary in its jurisdiction of organization that is of character, credit quality and maturity similar to one of the investments described in clauses (a) through (f) above.

"***Casualty Event***" means any casualty or other insured damage to, or any taking under any power of eminent domain or condemnation or similar proceeding of, any assets of the Borrower or any of its Subsidiaries.

"***CERCLA***" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

"***CERCLIS***" means the Comprehensive Environmental Response, Compensation, and Liability Information System maintained by the U.S. Environmental Protection Agency.

"***Change in Law***" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any Law, (b) any change in any Law or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority.

"***Change of Control***" means, an event or series of events by which:

(a) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such person or its subsidiaries, and any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) other than THLee or any group of which THLee is a member becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person or group shall be deemed to have "beneficial ownership" of all securities that such person or group has the right to acquire (such right, an "***option right***"), whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of 40% or more of either the aggregate ordinary voting power or the aggregate equity value represented by the issued and outstanding Equity Interests of the Borrower;

(b) during any period of 12 consecutive months, a majority of the members of the board of directors or other equivalent governing body of the Borrower ceases to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body (excluding, in the case of clauses (ii) and (iii), any individual whose initial nomination for, or assumption of office as, a member of that board or equivalent governing body occurs as a result of an actual or threatened solicitation of proxies or consents for the election or removal of one or more directors by any person or group other than a solicitation for the election of one or more directors by or on behalf of the board of directors), or

(c) the occurrence of a "Change of Control" (or a similar event, however denominated) under, and as defined in, any Indenture or any agreement, instrument or document governing or evidencing any Material Indebtedness of the Borrower that refinanced Indebtedness under any Indenture (in each case, after giving effect to any applicable grace period).

"***Class***" refers (a) when used in reference to any Loan or Borrowing, to whether such Loan, or the Loans comprising such Borrowing, are Dollar Term B Loans, Dollar Term B II Loans or Euro Term Loans, (b) when used in reference to any Commitment, to whether such Commitment is a Dollar Term B Commitment, a Dollar Term B II Commitment, a Euro Term Commitment or an LC Commitment and (c) when used in reference to any Lender, to whether such Lender is a Dollar Term B Lender, a Dollar Term B II Lender, a Euro Term Lender or an LC Lender.

"***Closing Date***" means the first date on which all of the conditions precedent set forth in Article IV are satisfied or waived in accordance with Section 10.01.

"***Code***" means the Internal Revenue Code of 1986, as amended from time to time.

"***Collateral***" means all of the "Collateral", "Mortgaged Property" and terms of similar import referred to in the Collateral Documents and intended under the terms of the Collateral Documents to be subject to Liens in favor of the Collateral Agent for the benefit of the Secured Parties.

"***Collateral Agent***" means GSCP, in its capacity as the collateral agent under the Guarantee and Collateral Agreement and the other Collateral Documents, or any successor collateral agent.

"***Collateral Documents***" means, collectively, the Guarantee and Collateral Agreement, the Mortgages, the Foreign Pledge Agreements, the deposit account or securities account control agreements required to be entered into by this Agreement or the Guarantee and Collateral Agreement and each other document or agreement that creates or purports to create a Lien in favor of the Collateral Agent, for the benefit of the Secured Parties.

"***Commitment***" means a Dollar Term B Commitment, a Dollar Term B II Commitment, a Euro Term Commitment or an LC Commitment, as the context may require.

"***Committed Loan Notice***" means a notice of (a) a Borrowing, (b) a conversion of Dollar Term Loans from one Type to the other or (c) a continuation of Eurocurrency Rate Loans, delivered by the Borrower pursuant to Section 2.02(a), which shall be substantially in the form of Exhibit B.

"***Compliance Certificate***" means a certificate substantially in the form of Exhibit C.

"***Consolidated Current Assets***" means, as of any date of determination, the total assets of the Borrower and its Subsidiaries on a consolidated basis that may properly be classified as current assets in accordance with GAAP, excluding cash and Cash Equivalents.

"***Consolidated Current Liabilities***" means, as of any date of determination, the total liabilities of the Borrower and its Subsidiaries on a consolidated basis that may properly be classified as current liabilities in accordance with GAAP, excluding the current portion of long-term debt.

"***Consolidated EBITDA***" means, for any period, for the Borrower and its Subsidiaries on a consolidated basis, an amount equal to Consolidated Net Income for such period plus (a) without duplication and to the extent deducted in calculating such Consolidated Net Income, the sum of: (i) Consolidated Interest Expense for such period, (ii) the provision for Taxes payable by the Borrower and its Subsidiaries for such period, (iii) depreciation and amortization expense for such period, (iv) severance costs for such period, (v) Restructuring Charges and cash extraordinary or cash non-recurring losses or charges incurred by the Borrower and the Subsidiaries for such period, provided that such Restructuring Charges and such cash extraordinary and cash non-recurring losses and charges shall not exceed, in the aggregate since the Closing Date, an amount (such amount being referred to as the "***Permitted Basket Amount***") equal to (A) $50,000,000 minus (B) the aggregate amount of cash payments not deducted as set forth in clause (b)(ii) below in reliance on the proviso set forth at the end of such clause, (vi) non-cash extraordinary or non-cash non-recurring losses or charges for such period (and excluding any such non-cash losses and charges in respect of an item that was included in Consolidated Net Income in a prior period) and (vii) fees, costs and expenses incurred by the Borrower and its Subsidiaries during the fiscal year ended September 30, 2007 in connection with the Exchange Offer and the other Transactions in an aggregate amount not to exceed $50,000,000 and minus (b) the sum of (i) without duplication and to the extent included in calculating such Consolidated Net Income, extraordinary or non-recurring gains for such period and (ii) all cash payments made during such period on account of non-cash losses and charges (other than any Restructuring Charges) that were added to Consolidated EBITDA pursuant to clause (a)(vi) above in a prior period, provided that no cash payment shall be required to be deducted pursuant to this clause (b)(ii) to the extent such payment does not exceed the Permitted Basket Amount as in effect at the end of the period during which such payment was made (such Permitted Basket Amount to be determined, for purposes of this calculation, without giving effect to such payment); provided that (A) in the event the Borrower or its Subsidiaries shall have consummated an Acquisition, the Consolidated EBITDA for any period during which such Acquisition shall have been consummated shall be calculated on a pro forma basis (based on the historical financial statements of the Person acquired or the assets of which were acquired) to give effect to such Acquisition (including any resulting increase or reduction in Indebtedness) as if such Acquisition had occurred on the first day of such period and (B) in the event the Borrower or its Subsidiaries shall have consummated a Specified Disposition, the Consolidated EBITDA for any period during which such Specified Disposition shall have been consummated shall be calculated on a pro forma basis (based on the historical financial statements of the Borrower and its Subsidiaries) to give effect to such Specified Disposition (including any resulting increase or reduction in Indebtedness) as if such Specified Disposition had occurred on the first day of such period, in each case as reasonably determined by the Borrower. The Compliance Certificate delivered for any period for which any adjustments to the Consolidated EBITDA set forth in clause (A) or (B) above shall have been made shall include a computation of such adjustments in reasonable detail.

"***Consolidated Interest Expense***" means, for any period, the interest expense for the Borrower and its Subsidiaries on a consolidated basis for such period, determined in accordance with GAAP. In the event the Borrower or any Subsidiary shall have consummated an Acquisition or a Specified Disposition, the Consolidated Interest Expense for any period during which such Acquisition or Specified Disposition shall have been consummated shall be calculated on a pro forma basis to give effect to all increases or decreases in Indebtedness directly related to such Acquisition or such Specified Disposition as if such Acquisition or such Specified Disposition had occurred on the first day of such period, in each case as reasonably determined by the Borrower. The Compliance Certificate delivered for any period for which any adjustments to the Consolidated Interest Expense set forth in the preceding sentence shall have been made shall include a computation of such adjustments in reasonable detail.

"***Consolidated Net Income***" means, for any period, for the Borrower and its Subsidiaries on a consolidated basis, the net income (or loss) of the Borrower and its Subsidiaries for such period, provided that there shall be excluded (a) the net income of any Subsidiary to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary from such income is not at the time permitted by the terms of its charter or by-laws or any judgment, decree, order or other Law, or any agreement, indenture or other instrument that is binding on such Subsidiary (other than any agreement, indenture or other instrument the breach of which could not reasonably be expected to result in a Material Adverse Effect), (b) the net income of any Person (other than the Borrower) in which any other Person (other than the Borrower or a Wholly-Owned Subsidiary or any director holding qualifying shares, or any Person holding shares due to native ownership requirements, in accordance with applicable Law) has a joint interest, except to the extent of the amount of dividends or other distributions actually paid by such Person to the Borrower or a Wholly-Owned Subsidiary during such period and (c) any after-tax gains or losses attributable to any Specified Disposition or returned surplus assets of any Pension Plan.

"***Consolidated Secured Indebtedness***" means, as of any date of determination, (a) the aggregate outstanding amount on such date of Indebtedness (other than Indebtedness referred to in clause (f) of the definition of such term) of the Borrower and its Subsidiaries on a consolidated basis that (i) is secured by Liens on assets of the Borrower or any of its Subsidiaries or (ii) represents Attributable Indebtedness (other than Synthetic Debt), minus (or, if negative, plus) (b) the amount (which may be negative) by which the Equivalent in Dollars of any such Indebtedness denominated in a foreign currency exceeds the Average Dollar Equivalent of such Indebtedness, minus (c) the lesser of (i) the aggregate amount of unrestricted cash and Cash Equivalents owned by the Borrower and its Subsidiaries on such date and (ii) $25,000,000.

"***Consolidated Working Capital***" means, as at any date of determination, the excess of Consolidated Current Assets over Consolidated Current Liabilities.

"***Consolidated Working Capital Adjustment***" means, for any period on a consolidated basis, the amount (which may be a negative number) by which Consolidated Working Capital as of the beginning of such period exceeds (or is less than) Consolidated Working Capital as of the end of such period.

"***Contractual Obligation***" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound, other than the Loan Documents.

"***Control***" means the possession, directly or indirectly, of the power (a) to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise, or (b) to vote 10% or more of the Equity Interests having ordinary voting power for the election of members of the board of directors or equivalent governing body of such Person. "***Controlling***" and "***Controlled***" have meanings correlative thereto.

"***Credit Extension***" means the making of a Borrowing or the issuance, amendment, renewal or extension of a Letter of Credit.

"***Debtor Relief Laws***" means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"***Default***" means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time or both, would constitute an Event of Default.

"***Default Rate***" means (a) when used with respect to Obligations other than LC Lender Fees, an interest rate per annum equal to (i) the Base Rate, plus (ii) the Applicable Rate applicable to Base Rate Loans, plus (iii) 2.0% per annum; provided, however, that with respect to a Eurocurrency Rate Loan, the Default Rate shall be an interest rate per annum equal to the interest rate (including the Applicable Rate) otherwise applicable to such Loan plus 2.0% per annum; and (b) when used with respect to LC Lender Fees, the aggregate rate per annum at which LC Lender Fees shall otherwise accrue hereunder plus 2.0% per annum.

"***Deposit Agent***" means Wachovia Bank, National Association, in its capacity as the deposit agent for the LC Facility under this Agreement, or any successor deposit agent.

"***Disposition***" or "***Dispose***" means, with respect to any Person, the sale, transfer, or other disposition of any assets by such Person, including any sale and leaseback transaction (but excluding other license or lease arrangements entered into in the ordinary course of business or that are customarily entered into by the companies in the same or similar line of business).

"***Dollar***" and "***$***" mean lawful money of the United States.

"***Dollar Term B Borrowing***" means a borrowing consisting of simultaneous Dollar Term B Loans of the same Type and, in the case of Eurocurrency Rate Loans, having the same Interest Period made by the Dollar Term B Lenders pursuant to Section 2.01(a).

"***Dollar Term B Commitment***" means, as to each Lender, its obligation, if any, to make Dollar Term B Loans to the Borrower pursuant to Section 2.01(a) in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender's name on Schedule 2.01 under the caption "Dollar Term B Commitment" or opposite such caption in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. The initial aggregate amount of the Lenders' Dollar Term B Commitments is $1,000,000,000.

"***Dollar Term B Facility***" means, at any time, (a) on or prior to the Closing Date, the aggregate amount of the Dollar Term B Commitments at such time and (b) thereafter, the aggregate principal amount of the Dollar Term B Loans of all Dollar Term B Lenders outstanding at such time.

"***Dollar Term B Lender***" means any Lender that has a Dollar Term B Commitment or holds a Dollar Term B Loan.

"***Dollar Term B Loan***" means an advance made by any Dollar Term B Lender under the Dollar Term B Facility.

"Dollar Term B II Borrowing" means a borrowing consisting of simultaneous Dollar Term B II Loans of the same Type and, in the case of Eurocurrency Rate Loans, having the same Interest Period made by the Dollar Term B II Lenders pursuant to Section 2.01(a).

"Dollar Term B II Commitment" means, as to each Lender, its obligation, if any, to make Dollar Term B II Loans to the Borrower pursuant to Section 2.01(a) in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender's name on Schedule 2.01 under the caption "Dollar Term B II Commitment" or opposite such caption in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. The initial aggregate amount of the Lenders' Dollar Term B II Commitments is $200,000,000.

"Dollar Term B II Facility" means, at any time, (a) on or prior to the Closing Date, the aggregate amount of the Dollar Term B II Commitments at such time and (b) thereafter, the aggregate principal amount of the Dollar Term B II Loans of all Dollar Term B II Lenders outstanding at such time.

"Dollar Term B II Lender" means any Lender that has a Dollar Term B II Commitment or holds a Dollar Term B II Loan.

"Dollar Term B II Loan" means an advance made by any Dollar Term B II Lender under the Dollar Term B II Facility.

"Dollar Term Facility" means a Dollar Term B Facility or a Dollar Term B II Facility, as the context may require.

"Dollar Term Lender" means a Dollar Term B Lender or a Dollar Term B II Lender, as the context may require.

"***Dollar Term Loan***" means a Dollar Term B Loan or a Dollar Term B II Loan, as the context may require.

"***Domestic Subsidiary***" means any Subsidiary that is organized under the laws of any political subdivision of the United States.

"***Dormant Subsidiaries***" means any Subsidiary so designated by the Borrower in a certificate to the Administrative Agent as to the matters below, so long as, in the case of each Subsidiary so designated, (a) such Subsidiary, taken together with all other Subsidiaries so designated, does not have consolidated assets with a fair market value in the aggregate in excess of 2.5% of the Total Assets and (b) such Subsidiary transacts no business and has no operations other than activities required to maintain its existence; provided that no Subsidiary may be a Dormant Subsidiary if the Borrower or any of its other Subsidiaries provides any credit support thereto or is liable in any respect for the liabilities thereof greater in the aggregate than such Subsidiary's fair market value.

"***Eligible Assignee***" means (a) any Lender, any Affiliate of any Lender and any Related Fund (any two or more Related Funds being treated as a single Eligible Assignee for all purposes hereof) and (b) any commercial bank, insurance company, investment or mutual fund or other entity that is an "accredited investor" (as defined in Regulation D under the Securities Act of 1933) and which extends credit or buys loans; provided that neither the Borrower nor any Affiliate of the Borrower shall be an Eligible Assignee.

"***Environmental Laws***" means any and all Federal, state, local, and foreign statutes, laws, regulations, codes, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution, the protection of the environment or natural resources, or the presence, management or release into the environment of any pollutants, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems, or to health and safety matters.

"***Environmental Liabilities***" means all liabilities, obligations, damages, losses, claims, actions, suits, judgments, orders, directives, fines, penalties, demands, investigations, notices, notices of violation, fees, expenses and costs (including administrative oversight costs, natural resource damages and the costs of any investigation, study, sampling, testing, abatement, cleanup, removal, remediation or other response action necessary to remove, remediate, clean up or abate any Hazardous Materials), whether contingent or otherwise, arising out of or relating to (a) compliance or non-compliance with any Environmental Law, (b) the generation, use, handling, manufacture, possession, presence, processing, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials or (d) the Release or threatened Release of any Hazardous Materials into the environment.

"***Environmental Permit***" means any permit, approval, identification number, license or other authorization required under any Environmental Law.

"***Equity Interests***" means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

"***Equity Issuance***" means the issuance by the Borrower or any of its Subsidiaries of any Equity Interests, or the receipt by the Borrower or any of its Subsidiaries of any capital contribution, other than (a) any such issuance of Equity Interests to, or receipt of any such capital contribution from, the Borrower or any of its Subsidiaries, (b) any such issuance of Equity Interests of the Borrower to directors, officers and employees of the Borrower and its Subsidiaries in the ordinary course of business pursuant to compensation or incentive plans of the Borrower or (c) any such issuance of Equity Interests as directors' qualifying shares.

"***Equivalent***" in Dollars of any foreign currency on any date means the equivalent in Dollars of such foreign currency determined by using the prevailing foreign exchange spot rate of JPMorgan Chase Bank, N.A., or another commercial bank reasonably acceptable to the Administrative Agent, and the "Equivalent" in any foreign currency of Dollars on any date means the equivalent in such foreign currency of Dollars determined by using the prevailing foreign exchange spot rate of JPMorgan Chase Bank, N.A., or such other commercial bank, for such date.

"***ERISA***" means the Employee Retirement Income Security Act of 1974, as amended.

"***ERISA Affiliate***" means any trade or business (whether or not incorporated) under common control with the Borrower within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

"***ERISA Event***" means (a) a Reportable Event with respect to a Pension Plan; (b) the existence with respect to any Pension Plan of an "accumulated funding deficiency" (as defined in Section 412 of the Code or Section 302 of ERISA), and, whether or not waived, the failure to make by its due date a required installment under Section 412(m) of the Code with respect to any Pension Plan or the failure to make any required contribution to a Multiemployer Plan; (c) a withdrawal by the Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (d) a complete or partial withdrawal by the Borrower or any ERISA Affiliate from a Multiemployer Plan, or notification that a Multiemployer Plan is in reorganization or has been terminated, within the meaning of Title IV of ERISA; (e) the filing of a notice of intent to terminate, the treatment of a Pension Plan amendment as a termination under Sections 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (f) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; (g) a determination that any Pension Plan is, or is expected to be, in "at-risk" status (as defined in Section 303(i)(4)(A) of ERISA or Section 403(i)(4)(A) of the Code); (h) the application for a minimum funding waiver with respect to a Pension Plan; (i) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any ERISA Affiliate; (j) the occurrence of a nonexempt prohibited transaction (within the meaning of Section 4975 of the Code or Section 406 of ERISA) which could result in liability to the Borrower or any of its Subsidiaries or (k) any other event similar to those described under (a) - (j) with respect to any Foreign Plan.

"***Euro***" and "***€***" means the single currency of the participating members of the European Union.

"***Euro Term Borrowing***" means a borrowing consisting of simultaneous Euro Term Loans having the same Interest Period made by the Euro Term Lenders pursuant to Section 2.01(c).

"***Euro Term Commitment***" means, as to each Lender, its obligation, if any, to make Euro Term Loans to the Borrower pursuant to Section 2.01(c) in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender's name on Schedule 2.01 under the caption "Euro Term Commitment" or opposite such caption in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. The initial aggregate amount of the Lenders' Euro Term Commitments is the Equivalent in Euros as of the Closing Date of $350,000,000 (€262,000,000).

"***Euro Term Facility***" means, at any time, (a) on or prior to the Closing Date, the aggregate amount of the Euro Term Commitments at such time and (b) thereafter, the aggregate principal amount of the Euro Term Loans of all Euro Term Lenders outstanding at such time.

"***Euro Term Lender***" means any Lender that has a Euro Term Commitment or holds a Euro Term Loan.

"***Euro Term Loan***" means an advance made by any Euro Term Lender under the Euro Term Facility.

"***Eurocurrency Rate***" means, for any Interest Period, with respect to a Eurocurrency Rate Loan, the rate per annum (rounded upward, if necessary, to the next 1/100th of 1%) determined by the Administrative Agent as follows:

$$\text{Eurocurrency Rate} = \frac{\text{Eurocurrency Base Rate}}{1.00 - \text{Eurocurrency Reserve Percentage}}$$

"***Eurocurrency Base Rate***" means, for such Interest Period, the rate per annum equal to the British Bankers Association LIBOR Rate ("***BBA LIBOR***"), as published by Reuters (or other commercially available source providing quotations of BBA LIBOR as designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for deposits in Dollars or in Euros, as applicable (in each case, for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period. If such rate is not available at such time for any reason, then the "Eurocurrency Base Rate" for such Interest Period shall be the rate per annum determined by the Administrative Agent to be the rate at which deposits in Dollars or in Euros, as applicable, for delivery on the first day of such Interest Period in same day funds in the approximate amount of the Eurocurrency Rate Loan being made, continued or converted by JPMorgan Chase Bank, N.A. and with a term equivalent to such Interest Period would be offered by the London Branch of JPMorgan Chase Bank, N.A. to major banks in the London interbank eurocurrency market at their request at approximately 11:00 a.m., London time, two Business Days prior to the first day of such Interest Period.

"***Eurocurrency Rate Loan***" means a Loan that bears interest at a rate based on the Eurocurrency Rate.

"***Eurocurrency Reserve Percentage***" means, for any day during any Interest Period, the reserve percentage (expressed as a decimal, carried out to five decimal places) in effect on such day, whether or not applicable to any Lender, under regulations issued from time to time by the FRB for determining the maximum reserve requirement (including any emergency, supplemental or other marginal reserve requirement) with respect to Eurocurrency funding (currently referred to as "Eurocurrency liabilities"). The Eurocurrency Rate for each outstanding Eurocurrency Rate Loan shall be adjusted automatically as of the effective date of any change in the Eurocurrency Reserve Percentage.

"***Eurodollar Rate Loan***" means any Eurocurrency Rate Loan denominated in Dollars.

"***Event of Default***" has the meaning specified in Section 8.01.

"***Excess Cash Flow***" means, for any period, the remainder of

(a) the sum, without duplication, of

(i) Consolidated EBITDA for such period

plus

(ii) to the extent deducted or not added in calculating Consolidated EBITDA, the aggregate amount of all extraordinary or non-recurring cash gains recognized by the Borrower and its Subsidiaries for such period,

plus

(iii) the Consolidated Working Capital Adjustment for such period (if a positive number),

less

(b) the sum, without duplication, of

(i) cash from operations used by the Borrower and its Subsidiaries during such period to make repayments of the outstanding principal amount of the Loans pursuant to Section 2.06, scheduled principal repayments of any other long-term Indebtedness of the Borrower and its Subsidiaries and the portion of any scheduled payments with respect to Capital Leases allocable to principal, provided, in each case, that such Indebtedness is permanently reduced as a result thereof,

plus

(ii) cash from operations used by the Borrower and its Subsidiaries during such period to make voluntary prepayments of the outstanding principal amount of the Loans pursuant to Section 2.04(a), voluntary principal prepayments of any other long-term Indebtedness of the Borrower and its Subsidiaries and the portion of any voluntary prepayments with respect to Capital Leases allocable to principal, provided, in each case, that such Indebtedness is permanently reduced as a result thereof,

plus

(iii) cash from operations used by the Borrower and its Subsidiaries during such period to make Capital Expenditures,

plus

(iv) all Taxes paid by the Borrower and its Subsidiaries during such period,

plus

(v) the cash component of Consolidated Interest Expense of the Borrower and its Subsidiaries for such period,

plus

(vi) cash from operations used by the Borrower and its Subsidiaries during such period to pay Restricted Payments permitted under Section 7.06(d) or (e),

plus

(vii) to the extent added or not deducted in calculating Consolidated EBITDA, extraordinary and non-recurring cash charges (including cash Restructuring Charges) for such period,

plus

(viii) cash expenses or charges incurred by the Borrower and its Subsidiaries during such period in connection with or in contemplation of any Investment permitted under Section 7.03, issuance of Equity Interests permitted hereunder and issuance or incurrence of Indebtedness permitted under Section 7.02, whether or not consummated,

plus

(ix) to the extent added or not deducted in calculating Consolidated EBITDA, cash costs, fees and expenses (including any applicable premium) incurred by the Borrower and its Subsidiaries during such period in connection with the Transactions or exchanges, redemptions or refinancings of any Indebtedness that are permitted by this Agreement,

plus

(x) cash from operations used by the Borrower and its Subsidiaries during such period to consummate a Permitted Acquisition,

plus

(xi) the Consolidated Working Capital Adjustment for such period (if a negative number), represented by the absolute amount thereof,

plus

(xii) cash from operations used by the Borrower and its Subsidiaries to make payments in satisfaction of non-current liabilities, other than Indebtedness, during such period.

"***Exchange Offer***" means the exchange offer and the related solicitation of consents to certain amendments and waivers consummated pursuant to the Exchange Offer Circular.

"***Exchange Offer Circular***" means the Offering Circular and Consent Solicitation Statement of the Borrower dated March 16, 2007.

"***Excluded Taxes***" means, with respect to any Agent, any Lender, any LC Issuer or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, (a) Taxes imposed on or measured by its overall net income (however denominated), and franchise Taxes imposed on it (in lieu of net income Taxes), by the jurisdiction (or any political subdivision thereof) under the Laws of which such recipient is organized or in which its principal office is located or in which it otherwise does business or, in the case of any Lender, in which its applicable Lending Office is located or in which it otherwise does business, (b) any branch profits taxes imposed by the United States, (c) in the case of a Foreign Lender (other than an assignee pursuant to a request by the Borrower under Section 10.12), any United States withholding tax with respect to the Borrower that is imposed on amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party hereto (or designates a new Lending Office) or is attributable to such Foreign Lender's failure or inability (other than as a result of a Change in Law) to comply with Section 3.01(f), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new Lending Office (or assignment), to receive additional amounts from the Borrower with respect to such Tax pursuant to Section 3.01(a) and (d) in the case of a Lender that is not a Foreign Lender, other than an assignee pursuant to a request by the Borrower under Section 10.12, any Tax that is imposed on amounts payable to such Lender at the time such Lender becomes a party hereto (or designates a new Lending Office) or is attributable to such Lender's failure or inability (other than as a result of a Change in Law) to comply with Section 3.01(f), except to the extent that such Lender (or its assignor, if any) was entitled at the time of designation of a new Lending Office (or assignment), to receive additional amounts from the Borrower with respect to such Tax pursuant to Section 3.01(a).

"***Existing Credit Agreement***" means the Fourth Amended and Restated Credit Agreement dated as of February 7, 2005, among the Borrower, certain Subsidiaries of the Borrower party thereto, the lenders party thereto, Bank of America, N.A., as administrative agent, and the other parties thereto, as heretofore amended.

"***Existing Letters of Credit***" means the letters of credit set forth on Schedule 2.03.

"***Facility***" means the Dollar Term B Facility, the Dollar Term B II Facility, the Euro Term Facility or the LC Facility, as the context may require.

"***Facilities Reduction Amount***" means, as of any date of determination, the amount by which (a) the sum of (i) the aggregate principal amount of Loans and the aggregate amount of LC Deposits, in each case, made on the Closing Date exceeds (b) the sum of (i) the aggregate principal amount of Loans and the aggregate amount of LC Exposure and unused LC Commitments outstanding on such date plus (ii) the aggregate principal amount of Loans prepaid on or prior to such date pursuant to Section 2.04(b)(ii), 2.04(b)(iii), 2.04(b)(iv) or 2.04(b)(viii).

"***Federal Funds Rate***" means, for any day, the rate per annum (expressed, as a decimal, rounded upwards, if necessary, to the next higher 1/100 of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; 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 charged to the Administrative Agent, in its capacity as a Lender, on such day on such transactions as determined by the Administrative Agent.

"***Fee Letters***" means (a) the Fee Letter dated March 11, 2007, between the Borrower and the Arrangers, (b) the Fee Letter dated March 30, 2007, between the Borrower and the Administrative Agent and (c) the Fee Letter dated March 30, 2007, between the Borrower and the Deposit Agent.

"***Fitch***" means Fitch Ratings and any successor thereto.

"***Foreign Government Scheme or Arrangement***" has the meaning specified in Section 5.12(c).

"***Foreign Lender***" means any Lender that is organized under the laws of a jurisdiction other than the United States, each State thereof and the District of Columbia.

"***Foreign Plan***" has the meaning specified in Section 5.12(c).

"***Foreign Pledge Agreement***" means a pledge or similar agreement with respect to the Equity Interests of a Foreign Subsidiary that is governed by the Law of a jurisdiction other than the United States, in form and substance reasonably satisfactory to the Administrative Agent.

"***Foreign Subsidiary***" means any Subsidiary that is not a Domestic Subsidiary.

"***FRB***" means the Board of Governors of the Federal Reserve System of the United States.

"***GAAP***" means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States, which are applicable to the circumstances as of the date of determination.

"***Governmental Authority***" means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"***Guarantee***" means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness payable or performable by another Person (the "***primary obligor***") in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part) or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term "***Guarantee***" as a verb has a corresponding meaning.

"***Guarantee and Collateral Agreement***" means the Guarantee and Collateral Agreement among the Borrower, the Subsidiary Loan Parties and the Collateral Agent, substantially in the form of Exhibit D hereto.

"***Guarantee and Collateral Requirement***" means, at any time, the requirement that:

(a) the Collateral Agent shall have received from each Loan Party either (i) a counterpart of the Guarantee and Collateral Agreement duly executed and delivered on behalf of such Loan Party or (ii) in the case of any Person that becomes a Loan Party after the Closing Date, a supplement to the Guarantee and Collateral Agreement, in the form specified therein, duly executed and delivered on behalf of such Loan Party;

(b) all outstanding Equity Interests of each Subsidiary directly owned by any Loan Party shall have been pledged pursuant to the Guarantee and Collateral Agreement (except that the Loan Parties shall not be required to pledge any Equity Interests of any Dormant Subsidiary or more than 65% of the outstanding voting Equity Interests of any Foreign Subsidiary) and the Collateral Agent shall have received certificates or other instruments representing all such Equity Interests, together with undated stock powers or other instruments of transfer with respect thereto endorsed in blank;

(c) all Indebtedness of the Borrower and each Subsidiary that is owing to any Loan Party shall be evidenced by a promissory note and shall have been pledged pursuant to the Guarantee and Collateral Agreement, and the Collateral Agent shall have received all such promissory notes, together with undated instruments of transfer with respect thereto endorsed in blank;

(d) all documents and instruments, including Uniform Commercial Code financing statements and documents required by Law or reasonably requested by the Collateral Agent to be filed, registered or recorded to create the Liens intended to be created by the Guarantee and Collateral Agreement and perfect such Liens to the extent required by, and with the priority required by, the Guarantee and Collateral Agreement, shall have been filed, registered or recorded or delivered to the Collateral Agent for filing, registration or recording;

(e) the Collateral Agent shall have received (i) counterparts of a Mortgage with respect to each Mortgaged Property duly executed and delivered by the record owner or lessee, as the case may be, of such Mortgaged Property, (ii) a policy or policies of title insurance issued by a nationally recognized title insurance company insuring the Lien of each such Mortgage as a valid first Lien on the Mortgaged Property described therein, free of any other Liens except as permitted by Section 7.01, together with such endorsements, coinsurance and reinsurance as the Collateral Agent may reasonably request, and (iii) such surveys, abstracts, appraisals, legal opinions and other documents as the Collateral Agent may reasonably request with respect to any such Mortgage or Mortgaged Property;

(f) with respect to the pledge of Equity Interests in any Foreign Subsidiary required to be pledged under clause (b) above, the Collateral Agent shall have received a counterpart, duly executed and delivered by the applicable Loan Party, of such Foreign Pledge Agreements that the Collateral Agent reasonably requests and determines, based on the advice of counsel, to be required or advisable in order to create or perfect its security interest therein;

(g) with respect to each deposit account maintained by any Loan Party (other than any such account the average daily balance in which does not exceed at any time $1,000,000 for any such account or $5,000,000 for all such accounts) and each securities account maintained by any Loan Party (other than any such account the fair value of the securities or other investment property held in which does not exceed at any time $1,000,000 for any such account or $5,000,000 for all such accounts), the Collateral Agent shall have received a counterpart, duly executed and delivered by the applicable depositary, securities intermediary or other financial institution, of a deposit account or securities account control agreement that the Collateral Agent determines to be required or advisable in order to perfect its security interest therein; provided that the foregoing shall not require delivery of any such agreement with respect to (i) accounts maintained outside the United States or (ii) deposit accounts with respect to which such a control agreement is prohibited under applicable Law or under agreements establishing such accounts (provided that such prohibitions in such agreements were not entered into in contemplation of the requirements set forth in this paragraph); and

(h) each Loan Party shall have obtained all consents and approvals required to be obtained by it in connection with the execution and delivery of all Collateral Documents to which it is a party, the performance of its obligations thereunder and the granting by it of the Liens thereunder, in each case, other than any such consents and approvals that could not reasonably be expected to be material to the interests of the Lenders under the Loan Documents.

The foregoing definition shall not require the creation or perfection of pledges of or security interests in, or the obtaining of title insurance, surveys or control agreements with respect to, particular assets if and for so long as, in the judgment of the Collateral Agent, the cost of creating or perfecting such pledges or security interests in such assets or obtaining title insurance, surveys or control agreements in respect of such assets shall be excessive in view of the benefits to be obtained by the Lenders therefrom. The Collateral Agent may grant extensions of time for the delivery of consents and approvals and the perfection of security interests in, or the obtaining of title insurance or surveys with respect to, particular assets (including extensions beyond the Closing Date for the perfection of security interests in the assets of the Loan Parties on such date) where it determines that such delivery or perfection cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required by this Agreement or the Collateral Documents.

"***Hazardous Materials***" means all radioactive substances, radioactive wastes, hazardous or toxic substances, hazardous or toxic wastes, or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, hazardous materials and all other substances or wastes of any nature prohibited, limited or regulated pursuant to any Environmental Law.

"***Indebtedness***" means, as to any Person, without duplication, all of the following, each to the extent treated as indebtedness or liabilities in accordance with GAAP:

(a) all indebtedness of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;

(b) the maximum amount of all direct or contingent obligations of such Person arising under letters of credit (whether standby or commercial), bankers' acceptances, bank guarantees, surety bonds and similar instruments;

(c) all obligations of such Person to pay the deferred purchase price of property or services (other than (i) trade accounts and accrued expenses payable in the ordinary course of business and (ii) any purchase price adjustment, earnout or deferred payment of a similar nature incurred in connection with a Permitted Acquisition or a Disposition, but only to the extent no payment is then owed pursuant to such purchase price adjustment, earnout or deferred payment obligation);

(d) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements) in an amount up to the lesser of the amount of indebtedness so secured and the fair market value of the property securing such indebtedness, whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;

(e) all Attributable Indebtedness;

(f) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any cash payment (other than, in each case, at the sole option of such Person or pursuant to exercise by any holder of common stock of such Person, or of options with respect to such common stock, of a right under any equity incentive plan of such Person to require a repurchase thereof in connection with any Taxes payable by such holder as a result of vesting, or lapse of restrictions on transfer, of such common stock or options, to the extent the payment made in any such repurchase does not exceed the amount of Taxes so payable) in respect of any Equity Interest in such Person or any other Person or any warrant, right or option to acquire such Equity Interest, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends; and

(g) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person.

"***Indemnified Liabilities***" means, collectively, any and all liabilities (including Environmental Liabilities), obligations, losses, damages, penalties, claims, actions, judgments, suits, costs, expenses and disbursements of any kind or nature whatsoever (including the reasonable out-of-pocket fees and expenses of consultants and fees and disbursements of counsel for Indemnitees in connection with any investigative, administrative or judicial proceeding or hearing commenced or threatened by any Person, whether or not any such Indemnitee shall be designated as a party or a potential party thereto, and any fees or expenses incurred by Indemnitees in enforcing this indemnity), whether direct, indirect or consequential and whether based on any Laws (including Securities Laws, commercial Laws and Environmental Laws), on common law or equitable cause or on contract or otherwise, that may be imposed on, incurred by, or asserted against any such Indemnitee, in any manner relating to or arising out of (a) this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby (including the Lenders' and the LC Issuers' agreement to make Credit Extensions or the use or intended use of the proceeds thereof, or any enforcement of any of the Loan Documents (including any sale of, collection from, or other realization upon any of the Collateral or the enforcement of any Guarantee of the Obligations)), (b) the commitment letter (and the Fee Letters) delivered by any Agent or any Arranger to the Borrower with respect to the transactions contemplated by this Agreement or (c) any Environmental Liability or any Hazardous Materials relating to or arising from, directly or indirectly, any past or present activity, operation, land ownership or practice of the Borrower or any of its Subsidiaries.

"***Indemnified Taxes***" means Taxes arising from any payment hereunder or under any other Loan Document, other than Excluded Taxes.

"***Indemnitees***" has the meaning specified in Section 10.04(b).

"***Indentures***" means, collectively, the 2013 New Indenture, the 2013 Original Indenture, as supplemented by the 2013 Supplemental Indenture, and the 2015 Indenture.

"***Information Memorandum***" means the Information Memorandum dated March 2007, used by the Arrangers in connection with the syndication of the Facilities.

"***Interest Payment Date***" means (a) as to any Loan other than a Base Rate Loan, the last day of each Interest Period applicable to such Loan and the Term Maturity Date; provided, however, that if any Interest Period for a Eurocurrency Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan, the last Business Day of each March, June, September and December and the Term Maturity Date.

"***Interest Period***" means, as to each Eurocurrency Rate Loan, the period commencing on the date such Eurocurrency Rate Loan is disbursed or converted to or continued as a Eurocurrency Rate Loan and ending on the date one, two, three or six months thereafter, as selected by the Borrower in its Committed Loan Notice or, to the extent agreed to by all applicable Lenders, nine or twelve months thereafter; provided that:

(a) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless (i) such Business Day falls in another calendar month or (ii) such Business Day falls more than 365 days after the commencement of such Interest Period (or if such Interest Period includes February 29, 366 days), in which case such Interest Period shall end on the next preceding Business Day;

(b) 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 the calendar month at the end of such Interest Period; and

(c) no Interest Period shall extend beyond the Term Maturity Date.

"***Internal Control Event***" means a material fraud that involves management employees who have a significant role in the internal controls over financial reporting of the Borrower, in each case as described in the Securities Laws.

"***Investment***" means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt interest in, another Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit or all or a substantial part of the business of, such Person. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

"***IP Rights***" has the meaning specified in Section 5.16.

"***IRB Debt***" means Indebtedness of the Borrower arising as a result of the issuance of tax-exempt industrial revenue bonds or similar tax-exempt public financing.

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

"***Laws***" means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, regulations, ordinances and codes, and all applicable administrative orders and agreements with, any Governmental Authority, in each case having the force of law.

"***LC Availability Period***" means the period from and including the Closing Date to but excluding the earlier of the LC Maturity Date and the date of termination of the LC Commitments.

"***LC Commitment"*** means, as to each Lender, its obligation, if any, to acquire participations in Letters of Credit pursuant to Section 2.03 not to exceed the amount, expressed as an amount representing the maximum aggregate permitted amount of such LC Lender's LC Exposure hereunder, set forth opposite such Lender's name on Schedule 2.01 under the caption "LC Commitment" or opposite such caption in the Assignment and Acceptance pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. The initial aggregate amount of the Lenders' LC Commitments is $50,000,000.

"***LC Deposit***" means, as to each LC Lender at any time, the amount actually on deposit in the LC Deposit Account to the credit of such Lender's Sub-Account at such time. The initial amount of each LC Lender's LC Deposit is set forth opposite such Lender's name on Schedule 2.01 under the caption "LC Deposit" or opposite such caption in the Assignment and Acceptance pursuant to which such Lender becomes a party hereto, as applicable. The initial aggregate amount of the Lenders' LC Deposits is $50,000,000.

"***LC Deposit Account***" has the meaning specified in Section 2.03(m).

"***LC Deposit Return***" has the meaning specified in Section 2.03(p).

"***LC Disbursement***" means any payment made by an LC Issuer pursuant to a Letter of Credit.

"***LC Exposure***" means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit at such time plus (b) the aggregate amount of all LC Disbursements that have not yet been reimbursed by or on behalf of the Borrower at such time. The LC Exposure of any LC Lender at any time shall be its Applicable Percentage of the total LC Exposure at such time.

"***LC Facility***" means, at any time, (a) on or prior to the Closing Date, the aggregate amount of the LC Commitments of all LC Lenders at such time and (b) thereafter, the aggregate amount of the LC Deposits of all LC Lenders outstanding at such time.

"***LC Issuer***" means (a) Bank of America, N.A. and (b) each Lender or other financial institution designated as an LC Issuer pursuant to Section 2.03(j), in each case in its capacity as an issuer of Letters of Credit hereunder. Each LC Issuer may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of such LC Issuer, in which case the term "LC Issuer" shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

"***LC Lender***" means any Lender that has an LC Deposit or an LC Exposure.

"***LC Lender Fees***" means the fees payable by the Borrower to the LC Lenders as set forth in Section 2.03(p) and the participation fees payable by the Borrower to the LC Lenders as set forth in Section 2.08(a).

"***LC Maturity Date***" means the sixth anniversary of the Closing Date.

"***Lender***" has the meaning specified in the introductory paragraph hereto.

"***Lending Office***" means, as to any Term Lender, the office or offices of such Term Lender described as such in such Term Lender's Administrative Questionnaire, or such other office or offices as a Term Lender may from time to time notify the Borrower and the Administrative Agent.

"***Letter of Credit***" means any letter of credit issued and outstanding hereunder, including the Existing Letters of Credit. All Letters of Credit shall be denominated in Dollars.

"***Lien***" means any mortgage, pledge, hypothecation, encumbrance, lien (statutory or other), charge, priority or other security interest or preferential arrangement in the nature of a security interest of any kind (including (a) any conditional sale or other title retention agreement, (b) any easement, right of way or other encumbrance on title to real property (c) any financing lease having substantially the same economic effect as any of the foregoing, but not including the interest of a lessor under an operating lease).

"***Loan***" means an extension of credit in the form of a loan by a Lender to the Borrower under Article II, and may be a Dollar Term B Loan, a Dollar Term B II Loan or a Euro Term Loan.

"***Loan Documents***" means, collectively, this Agreement, the Guarantee and Collateral Agreement, the Mortgages and the other Collateral Documents.

"***Loan Parties***" means, collectively, the Borrower and the Subsidiary Loan Parties.

"***Material Adverse Effect***" means (a) a material adverse change in, or a material adverse effect upon, the operations, business, assets or financial condition of the Borrower and its Subsidiaries, taken as a whole, or (b) a material impairment of the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document or of the rights and remedies, taken as a whole, of the Administrative Agent, the Collateral Agent or any Lender under any Loan Document, or of the ability of the Loan Parties, taken as a whole, to perform their obligations under the Loan Documents.

"***Material Indebtedness***" means any Indebtedness of the Borrower or any of its Subsidiaries having an aggregate principal amount, including undrawn committed or available amounts, of at least the Threshold Amount.

"***Moody's***" means Moody's Investors Service, Inc. and any successor thereto.

"***Mortgage***" means a mortgage, deed of trust, assignment of leases and rents, leasehold mortgage or other security document creating or purporting to create a Lien on any Mortgaged Property in favor of the Collateral Agent, for the benefit of the Secured Parties. Each Mortgage shall be reasonably satisfactory in form and substance to the Collateral Agent.

"***Mortgaged Property***" means (a) each parcel of real property and the improvements thereto owned by a Loan Party that (i) constitutes a "mortgaged property" under the Existing Credit Agreement and with respect to which a Mortgage is requested by the Collateral Agent or (ii) has an estimated fair market value of $5,000,000 or more and (b) each leasehold interest in real property held by a Loan Party to the extent such leasehold interest is material to the business or operations of the Borrower and its Subsidiaries and could not readily be replaced on terms not materially less favorable to the lessee.

"***Multiemployer Plan***" means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions.

"***Net Cash Proceeds***" means:

(a) with respect to any Disposition by the Borrower or any of its Subsidiaries, the excess, if any, of (i) the sum of cash and Cash Equivalents received in connection with such transaction (including any cash or Cash Equivalents received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received) over (ii) the sum of (A) the principal amount of any Indebtedness (x) that is secured by the Disposed asset or (y) in the case of any Disposition by a Foreign Subsidiary, that is owed by such Foreign Subsidiary and, in each case under clause (x) or (y), that is required to be repaid in connection with such transaction (other than Indebtedness under the Loan Documents), together with any interest, premium or penalties required to be paid in connection therewith, (B) the direct costs and expenses (including sales commissions and legal, accounting and investment banking fees but excluding costs and expenses owed to any Affiliate of the Borrower (other than THLee)) incurred by the Borrower or such Subsidiary in connection with such transaction, (C) Taxes reasonably estimated to be actually payable within one year of the date of such transaction (or receipt of a deferred payment, as applicable) as a result of any gain recognized in connection therewith, (D) any reserve for adjustment in respect of (x) sale price of the Disposed assets established in accordance with GAAP and (y) any liabilities associated with such asset and retained by the Borrower or any of its Subsidiaries after such Disposition thereof, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnifications obligations associated with such transaction and (E) at any time when the Permitted ABL Facility shall be in existence and the commitments thereunder shall be in effect, the aggregate amount by which the "borrowing base" thereunder shall be reduced as a result of such transaction;

(b) with respect to any Casualty Event, the excess of (i) the sum of the cash and Cash Equivalents received in connection with such event, including insurance proceeds (other than proceeds of any business interruption insurance) over (ii) the sum of (A) the principal amount of Indebtedness that is secured by the applicable asset and that is required to be repaid in connection with such event (other than Indebtedness under the Loan Documents), together with any interest, premium or penalties required to be paid in connection therewith, and (B) Taxes reasonably estimated to be actually payable within one year of the date of such event as a result of any gain recognized in connection therewith; and

(c) with respect to the incurrence or issuance of any Indebtedness by the Borrower or any of its Subsidiaries or any Equity Issuance, the excess of (i) the sum of the cash and Cash Equivalents received in connection with such transaction over (ii) the sales and underwriting discounts, fees and commissions and other direct costs and expenses (including legal, accounting and investment banker fees) incurred by the Borrower or such Subsidiary in connection therewith.

"***Non-Consenting Lender***" has the meaning specified in Section 10.01.

"***Nonpublic Information***" means information that has not been disseminated in a manner making it available to investors generally, within the meaning of Regulation FD promulgated under the Securities Laws.

"***NPL***" means the National Priorities List under CERCLA.

"***Obligations***" has the meaning specified in the Guarantee and Collateral Agreement.

"OECD" means the Organization for Economic Cooperation and Development.

"OECD Member" means a country that signed or ratified the Convention on the Organization for Economic Cooperation and Development and is thus a member of OECD.

"***Organization Documents***" means (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction), (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

"***Other Taxes***" means all present or future stamp, documentary, excise, property, intangible, mortgage recording or similar taxes, charges or similar levies arising from any payment made hereunder or under any other Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

"***Overnight Rate***" means, with respect to any sum denominated in a foreign currency, the rate of interest per annum determined by the Administrative Agent as the rate of interest at which deposits in such foreign currency, in the approximate amount of such sum and having a term of one Business Day, would be offered to major banks in the London interbank market at their request at approximately 1:00 p.m., London time.

"***PBGC***" means the Pension Benefit Guaranty Corporation.

"***Pension Plan***" means any "employee pension benefit plan" (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by the Borrower or any ERISA Affiliate, to which the Borrower or any ERISA Affiliate contributes or has an obligation to contribute or to which the Borrower or any ERISA Affiliate could have liability under Section 4064 or 4069 of ERISA in the event such plan has been or were to be terminated.

"***Perfection Certificate***" means a certificate in the form attached to the Guarantee and Collateral Agreement or any other form approved by the Collateral Agent.

"***Permitted ABL Facility***" has the meaning specified in Section 7.02(m).

"***Permitted Acquisition***" means an Investment that is consummated in compliance with the requirements of Section 7.03(h).

"***Permitted Liens***" has the meaning specified in Section 7.01.

"***Person***" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

"***Plan***" means any "employee benefit plan" (as such term is defined in Section 3(3) of ERISA) established by the Borrower or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, any ERISA Affiliate.

"***Platform***" has the meaning specified in Section 6.04.

"***Prime Rate***" means the rate of interest quoted in The Wall Street Journal, Money Rates Section as the Prime Rate (currently defined as the base rate on corporate loans posted by at least 75% of the nation's 30 largest banks), as in effect from time to time. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer. Any Agent or any Lender may make commercial loans or other loans at rates of interest at, above or below the Prime Rate.

"***Qualified Foreign Credit Facility***" means a term loan, revolving credit or overdraft facility provided by a Lender, an Arranger, an Affiliate of any of the foregoing or any other financial institution to any Foreign Subsidiary, which facility (a) is permitted under Section 7.02 and (b) is designated as a "Qualified Foreign Credit Facility" in a written notice by the Borrower to the Administrative Agent, provided that the aggregate principal amount of all such Qualified Foreign Credit Facilities in effect at any time shall not exceed $25,000,000.

"***Register***" has the meaning specified in Section 10.06(b).

"***Registered Public Accounting Firm***" has the meaning specified by the Securities Laws and shall be independent of the Borrower, within the meaning of the Securities Laws.

"***Related Fund***" means, with respect to any Lender that is an investment fund, any other investment fund that invests in commercial loans and that is managed or advised by the same investment advisor as such Lender or by an Affiliate of such investment advisor.

"***Related Parties***" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents and advisors of such Person and of such Person's Affiliates.

"***Release***" means any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, dumping, leaching or migration of any Hazardous Material into the indoor or outdoor environment (including the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Material), including the movement of any Hazardous Material through the air, soil, surface water or groundwater.

"***Reportable Event***" means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30-day notice period has been waived.

"***Required Dollar Term B Lenders***" means, as of any date of determination, Dollar Term B Lenders holding more than 50% of the aggregate principal amount of the Dollar Term B Loans outstanding on such date.

"Required Dollar Term B II Lenders" means, as of any date of determination, Dollar Term B II Lenders holding more than 50% of the aggregate principal amount of the Dollar Term B II Loans outstanding on such date.

"***Required Euro Term Lenders***" means, as of any date of determination, Euro Term Lenders holding more than 50% of the aggregate principal amount of Euro Term Loans outstanding on such date.

"***Required LC Lenders***" means, as of any date of determination, LC Lenders holding LC Exposures and unused LC Commitments representing more than 50% of the sum of (a) the aggregate LC Exposure outstanding on such date and (b) the aggregate unused LC Commitments in effect on such date.

"***Required Lenders***" means, as of any date of determination, Lenders holding more than 50% of the sum of (a) the aggregate principal amount of the Loans outstanding on such date, (b) the aggregate LC Exposure outstanding on such date and (c) the aggregate unused Commitments in effect on such date.

"***Required Term Lenders***" means, as of any date of determination, Term Lenders holding more than 50% of the aggregate principal amount of the Loans outstanding on such date.

"***Responsible Officer***" means, in the case of the Borrower or any other Loan Party, the chairman or vice chairman, chief executive officer, president, chief financial officer, general counsel, secretary, treasurer or assistant treasurer (or such other officer as may be reasonably acceptable to the Administrative Agent) of the Borrower or such Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party, and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

"***Restricted Payment***" means any dividend or other distribution with respect to any capital stock or other Equity Interest of any Person or any of its Subsidiaries, or any payment, including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation or termination of any such capital stock or other Equity Interest, or on account of any return of capital to any Person's stockholders, partners or members (or the equivalent of any thereof).

"***Restructuring Charges***" means all cash and noncash charges related to the integration of an acquisition or non-recurring charges related to a non-recurring restructuring of operations of the Borrower and its Subsidiaries appearing on the consolidated statement of operations of the Borrower and its Subsidiaries prepared in accordance with GAAP.

"***S&P***" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., and any successor thereto.

"***Sarbanes-Oxley***" means the Sarbanes-Oxley Act of 2002.

"***SEC***" means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

"***Secured Parties***" has the meaning specified in the Guarantee and Collateral Agreement.

"***Securities Laws***" means the Securities Act of 1933, the Securities Exchange Act of 1934, the Sarbanes-Oxley and, in each case, the rules and regulations of the SEC promulgated thereunder, and the applicable accounting and auditing principles, rules, standards and practices promulgated, approved or incorporated by the SEC or the Public Company Accounting Oversight Board, as each of the foregoing may be amended and in effect on any applicable date under this Agreement.

"***Senior Secured Leverage Ratio***" means, as of any date of determination, the ratio of (a) Consolidated Secured Indebtedness as of such date to (b) Consolidated EBITDA for the period of the four consecutive fiscal quarters of the Borrower ended on or most recently prior to such date.

"***Solvent***" and "***Solvency***" mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the assets of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts and other liabilities as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or other liabilities beyond such Person's ability to pay such debts and liabilities as they mature and (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's assets would constitute an unreasonably small capital. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that could reasonably be expected to become an actual or matured liability.

"***Specified Disposition***" means any Disposition referred to in Section 7.05(g) or 7.05(h).

"***Sub-Account***" has the meaning specified in Section 2.03(s).

"***Subordinated Notes***" means the 2013 New Notes, the 2013 Original Notes and the 2015 Notes.

"***Subsidiary***" of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person (including, for the avoidance of doubt, a company, corporation or partnership which is a "dependent enterprise" (*abhängiges Unternehmen*) of such Person within the meaning of Section 17 of the German Stock Corporation Act (*Aktiengesetz*), or which is a "subsidiary" (*Tochterunternehmen*) within the meaning of Section 290 of the German Commercial Code (*Handelsgesetzbuch*) of such Person, or where such Person has the power to direct the management and the policies of such entity whether through the ownership of share capital, contract or otherwise). Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of the Borrower.

"***Subsidiary Loan Parties***" means any Subsidiary of the Borrower that is not a Foreign Subsidiary or a Dormant Subsidiary and that is a party to the Guarantee and Collateral Agreement.

"***Swap Contract***" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, that are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "***Master Agreement***"), including any such obligations or liabilities under any Master Agreement.

"***Swap Termination Value***" means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).

"***Syndication Agent***" means GSCP, in its capacity as the syndication agent for the Facilities.

"***Synthetic Debt***" means, with respect to any Person, all obligations of such Person in respect of transactions entered into by such Person that are intended to function primarily as a borrowing of funds (including any minority interest transactions that function primarily as a borrowing) but are not otherwise included in the definition of Indebtedness or as a liability on the consolidated balance sheet of such Person and its Subsidiaries in accordance with GAAP.

"***Synthetic Lease Obligation***" means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease or (b) an agreement for the use or possession of property (including sale and leaseback transactions), in each case, creating obligations that do not appear on the balance sheet of such Person but which, upon the application of any Debtor Relief Laws to such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

"***TARGET Day***" means any day on which the Trans-European Automated Real-time Gross settlement Express Transfer payment system is open for the settlement of payments in Euro.

"***Taxes***" means all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"***Term Facilities***" means, collectively, the Dollar Term B Facility, the Dollar Term B II Facility and the Euro Term Facility.

"***Term Lender***" means a Dollar Term B Lender, a Dollar Term B II Lender or a Euro Term Lender.

"***Term Maturity Date***" means the sixth anniversary of the Closing Date.

"***THLee***" means Thomas H. Lee Partners, L.P. and its Affiliates.

"***Threshold Amount***" means $15,000,000.

"***Total Assets***" means, as of any day, the total consolidated assets of the Borrower and its Subsidiaries, as shown on the most recent balance sheet delivered pursuant to Section 6.01.

"***Transactions***" means, collectively, (a) the Exchange Offer, (b) the execution, delivery and performance of the 2013 Supplemental Indenture and the issuance of the 2013 New Notes, (c) the execution, delivery and performance by the Loan Parties of this Agreement and the other Loan Documents, the borrowing of the Loans and the use of the proceeds thereof, the obtaining of the Letters of Credit and the creation and perfection of Liens granted under the Collateral Documents and (d) the prepayment of loans, and termination of commitments, under the Existing Credit Agreement.

"***Type***" means, with respect to a Dollar Term Loan, its character as a Base Rate Loan or a Eurodollar Rate Loan.

"***Unfunded Pension Liability***" means the excess of a Pension Plan's benefit liabilities under Section 4001(a)(16) of ERISA over the current value of that Pension Plan's assets, determined in accordance with the assumptions used for funding the Pension Plan pursuant to Section 412 of the Code for the applicable plan year.

"***United States***" and "***U.S.***" mean the United States of America.

"***Wachovia***" means Wachovia Bank, National Association.

"***Wholly-Owned Subsidiary***" means any Person in which, other than director's qualifying shares or similar shares owned by other Persons due to native ownership requirements, 100% of the capital stock or other equity interests of each class is owned beneficially and of record by the Borrower or by one or more other wholly-owned Subsidiaries of the Borrower; provided, however, that, as such defined term is used in the definition of the term Consolidated Net Income, the foregoing percentage shall be deemed to be replaced with 80%.

Section 1.02. Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "***include***," "***includes***" and "***including***" shall be deemed to be followed by the phrase "***without limitation***." The word "***will***" shall be construed to have the same meaning and effect as the word "***shall***." Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document (including any Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns, (iii) the words "***herein***," "***hereof***" and "***hereunder***," and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time and (vi) the words "***asset***" and "***property***" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word "***from***" means "***from and including***;" the words "***to***" and "***until***" each mean "***to but excluding***;" and the word "***through***" means "***to and including***."

(c) Article and Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

Section 1.03. Accounting Terms.

(a) Generally. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP, as in effect from time to time, applied on a consistent basis in a manner consistent with that used in preparing the audited consolidated financial statements of the Borrower and its Subsidiaries for the fiscal year ended September 30, 2006, except as otherwise specifically prescribed herein.

(b) Changes in GAAP. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrower shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

Section 1.04. Rounding. Any financial ratios required to be maintained by the Borrower pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

Section 1.05. Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

Section 1.06. Currency Equivalents Generally. Unless otherwise set forth herein, any amount specified in this Agreement in Dollars shall include the Equivalent in Dollars of such amount in any foreign currency and if any amount described in this Agreement is comprised of amounts in Dollars and amounts in one or more foreign currencies, the Equivalent in Dollars of such foreign currency amounts shall be used to determine the total.

Section 1.07. Designation as Senior Debt. The Loans and other Obligations hereunder are hereby designated as "Senior Debt" and as "Designated Senior Debt" under, and for purposes of, each of the Indentures, and are further given all such other designations (including designations as "senior debt" and "designated senior debt") as shall be required under the terms of any other subordinated Indebtedness of the Company or any of the Subsidiary Loan Parties in order that the Lenders may have and exercise any payment blockage or other remedies available or potentially available to holders of senior Indebtedness under the terms of such subordinated Indebtedness.

ARTICLE II

THE COMMITMENTS AND CREDIT EXTENSIONS

Section 2.01. The Loans.

(a) The Dollar Term B Borrowings. Subject to the terms and conditions set forth herein, each Dollar Term B Lender severally agrees to make a single loan to the Borrower on the Closing Date in a principal amount not to exceed such Dollar Term B Lender's Dollar Term B Commitment. The Dollar Term B Loans shall be made by the Dollar Term B Lenders in accordance with their respective Dollar Term B Commitments and shall be denominated in Dollars. Amounts borrowed under this Section 2.01(a) and repaid or prepaid may not be reborrowed. Dollar Term B Loans may be Base Rate Loans or Eurocurrency Rate Loans, as further provided herein.

(b) The Dollar Term B II Borrowings. Subject to the terms and conditions set forth herein, each Dollar Term B II Lender severally agrees to make a single loan to the Borrower on the Closing Date in a principal amount not to exceed such Dollar Term B II Lender's Dollar Term B II Commitment. The Dollar Term B II Loans shall be made by the Dollar Term B II Lenders in accordance with their respective Dollar Term B II Commitments and shall be denominated in Dollars. Amounts borrowed under this Section 2.01(b) and repaid or prepaid may not be reborrowed. Dollar Term B II Loans may be Base Rate Loans or Eurocurrency Rate Loans, as further provided herein.

(c) The Euro Term Borrowings. Subject to the terms and conditions set forth herein, each Euro Term Lender severally agrees to make a single loan to the Borrower on the Closing Date in a principal amount not to exceed such Euro Term Lender's Euro Term Commitment. The Euro Term Loans shall be made by the Euro Term Lenders in accordance with their respective Euro Term Commitments and shall be denominated in Euros. Amounts borrowed under this Section 2.01(c) and repaid or prepaid may not be reborrowed. Euro Term Loans shall be Eurocurrency Rate Loans.

Section 2.02. Borrowings, Conversions and Continuations of Loans.

(a) Each Dollar Term Borrowing and each Euro Term Borrowing, each conversion of Dollar Term Loans from one Type to the other and each continuation of Eurocurrency Rate Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may be given by telephone. Each such notice must be received by the Administrative Agent not later than (i) 1:00 p.m. three Business Days prior to the requested date of any Borrowing of, conversion to or continuation of Eurodollar Rate Loans, (ii) 1:00 p.m. three Business Days prior to the requested date of any Borrowing or continuation of Euro Term Loans and (iii) 1:00 p.m. on the requested date of any Borrowing of or conversion to Base Rate Loans. Each telephonic notice by the Borrower pursuant to this Section 2.02(a) must be confirmed promptly by delivery to the Administrative Agent of a written Committed Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Each conversion to or continuation of Eurodollar Rate Loans shall be in a principal amount of $2,500,000 or a whole multiple of $500,000 in excess thereof, each continuation of Eurocurrency Rate Loans in Euros shall be in a principal amount of €500,000 or a whole multiple of €100,000 in excess thereof, and each conversion to Base Rate Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof; provided, however, that in the event the Borrowing of any Class is not a whole multiple of the multiple thresholds set forth above, then the foregoing multiple thresholds shall not be applicable in circumstances where compliance therewith cannot be accomplished as a result thereof. Each telephonic request and each Committed Loan Notice shall specify (i) whether the Borrower is requesting a Dollar Term B Borrowing, a Dollar Term B II Borrowing or a Euro Term Borrowing, a conversion of Dollar Term Loans from one Type to the other or a continuation of Eurocurrency Rate Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be, which date shall be a Business Day, (iii) the principal amount and Class of Loans to be borrowed, converted or continued, expressed in the applicable currency, (iv) in the case of Dollar Term Loans, the Type of Loans to be borrowed or to which existing Dollar Term Loans are to be converted and (v) in the case of a Eurocurrency Rate Loan, the duration of the Interest Period with respect thereto. In the case of Dollar Term Loans, if the Borrower fails to specify a Type of Loan in a Committed Loan Notice or if the Borrower fails to give a timely notice requesting a conversion or continuation thereof, then the applicable Dollar Term Loans shall be made as, or converted to, Base Rate Loans. In the case of Loans denominated in Euros, such Loans shall always be Eurocurrency Rate Loans, and if the Borrower fails to give a timely notice requesting a continuation thereof, then the applicable Loans shall be continued for an Interest Period of one month. Any such automatic conversion to Base Rate Loans or automatic continuation for an Interest Period of one month shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurocurrency Rate Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of Eurocurrency Rate Loans in any such Committed Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month.

(b) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each applicable Lender of its Applicable Percentage under the applicable Facility of the applicable Dollar Term B Loans, Dollar Term B II Loans or Euro Term Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each applicable Lender of the details of any automatic conversion to Base Rate Loans or automatic continuation of an Interest Period of one month described in Section 2.02(a). Each Lender shall make the amount of each Loan to be made by it hereunder available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 1:00 p.m. on the Business Day specified in the applicable Committed Loan Notice. Subject to the satisfaction of the applicable conditions set forth in Article IV, the Administrative Agent shall make all funds so received available to the Borrower, in like funds as received by the Administrative Agent, by wire transfer of such funds in accordance with instructions provided to the Administrative Agent by the Borrower, which instructions shall be reasonably acceptable to the Administrative Agent.

(c) Except as otherwise provided herein, a Eurocurrency Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurocurrency Rate Loan. During the existence of an Event of Default, no Dollar Term Loans may be requested as, converted to or continued as Eurodollar Rate Loans, and no Euro Term Loans may be requested or continued as Eurocurrency Rate Loans with an Interest Period of longer than one month, in each case, without the consent of the Required Dollar Term B Lenders, Required Dollar Term B II Lenders or Required Euro Term Lenders, as applicable.

(d) The Administrative Agent shall promptly notify the Borrower and the applicable Lenders of the interest rate applicable to any Interest Period for Eurocurrency Rate Loans upon determination of such interest rate.

(e) After giving effect to all Dollar Term Borrowings, all conversions of Dollar Term Loans from one Type to the other and all continuations of Dollar Term Loans as Loans of the same Type, there shall be no more than 10 Interest Periods in effect at any time in respect of the Dollar Term Facility. After giving effect to all Euro Term Borrowings and all continuations of Euro Term Loans, there shall be no more than five Interest Periods in effect at any time in respect of the Euro Term Facility.

Section 2.03. LC Facility; Letters of Credit.

(a) General. Subject to the terms and conditions set forth herein, the Borrower may request any LC Issuer to issue Letters of Credit in Dollars for its own account or, so long as the Borrower is a joint and several co-applicant with respect thereto, for the account of any of the Subsidiaries, in a form reasonably acceptable to the Administrative Agent and the applicable LC Issuer, at any time and from time to time during the LC Availability Period. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Borrower to, or entered into by the Borrower with, an LC Issuer relating to any Letter of Credit, the terms and conditions of this Agreement shall control. On and after the Closing Date, each Existing Letter of Credit shall be deemed to be a Letter of Credit for all purposes hereof and shall be deemed to have been issued hereunder on the Closing Date. The Borrower unconditionally and irrevocably agrees that, in connection with any Letter of Credit issued for the account of any Subsidiary as provided in the first sentence of this paragraph, it will be fully responsible for the reimbursement of LC Disbursements, the payment of interest thereon and the payment of fees due under Section 2.08(a) to the same extent as if it were the sole account party in respect of such Letter of Credit (the Borrower hereby irrevocably waiving any defenses that might otherwise be available to it as a guarantor of the obligations of any Subsidiary that shall be an account party in respect of any such Letter of Credit).

(b) Notice of Issuance, Amendment, Renewal and Extension; Certain Conditions. To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Borrower shall hand deliver or send by facsimile (or transmit by electronic communication, if arrangements for doing so have been approved by the applicable LC Issuer) to the applicable LC Issuer and the Administrative Agent (reasonably in advance of the requested date of issuance, amendment, renewal or extension) a notice requesting the issuance of such Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment, renewal or extension, as applicable (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with Section 2.03(c)), the amount of such Letter of Credit, the name and address of the beneficiary thereof, the account party for such Letter of Credit and such other information as shall be necessary to enable the applicable LC Issuer to prepare, amend, renew or extend such Letter of Credit. If requested by the applicable LC Issuer, the Borrower also shall submit a letter of credit application on the applicable LC Issuer's standard form in connection with any request for a Letter of Credit. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon issuance, amendment, renewal or extension of each Letter of Credit the Borrower shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension, the aggregate LC Exposures will not exceed the aggregate LC Commitments. Each LC Issuer agrees that it will not issue, renew, extend or increase the amount of any Letter of Credit without first obtaining written confirmation from the Administrative Agent that such action is then permitted under this Agreement (it being understood that the deemed issuance on the Closing Date of the Existing Letters of Credit pursuant to Section 2.03(a) shall be permitted). The obligation of each LC Issuer to issue, amend, renew or extend any Letter of Credit shall be subject to the satisfaction of the following conditions (and upon issuance, amendment, renewal or extension of each Letter of Credit the Borrower shall be deemed to represent and warrant that): (A) the representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan Document shall be true and correct in all material respects on and as of the date of such issuance, amendment, renewal or extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date; and (B) immediately after giving effect to such issuance, amendment, renewal or extension, no Default shall have occurred and be continuing. Notwithstanding anything to the contrary herein, Bank of America, N.A., shall have no obligation to issue any Letter of Credit (other than the deemed issuance of the Existing Letters of Credit on the Closing Date pursuant to Section 2.03(a)), or to extend, increase, modify or amend any Letter of Credit.

(c) Expiration Date. Each Letter of Credit shall expire at or prior to the close of business on the earlier of (i) the date one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension) and (ii) the date that is five Business Days prior to the LC Maturity Date; provided that any Letter of Credit may contain customary automatic renewal provisions agreed upon by the Borrower and the applicable LC Issuer pursuant to which the expiration date shall be automatically extended for a period of up to 12 months (but not to a date later than the date set forth in clause (ii) above), subject to a right on the part of such LC Issuer to prevent any such renewal from occurring by giving notice to the beneficiary by a specified time in advance of any such renewal.

(d) Participations. By the issuance of a Letter of Credit (including the deemed issuance on the Closing Date of the Existing Letters of Credit pursuant to Section 2.03(a)), or an amendment to a Letter of Credit increasing the amount thereof, and without any further action on the part of the applicable LC Issuer or the LC Lenders, such LC Issuer hereby grants to each LC Lender, and each LC Lender hereby acquires from such LC Issuer, a participation in such Letter of Credit equal to such LC Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each LC Lender hereby absolutely and unconditionally agrees that if an LC Issuer makes a LC Disbursement that is not reimbursed by the Borrower on the date due as provided in Section 2.03(e), or is required to refund any reimbursement payment in respect of a LC Disbursement to the Borrower for any reason, the applicable LC Issuer shall be reimbursed for such LC Lender's Applicable Percentage of the amount of such LC Disbursement from such LC Lender's LC Deposit as set forth in Section 2.03(e). In the event the LC Deposit Account is charged by the Deposit Agent to reimburse the applicable LC Issuer for an unreimbursed LC Disbursement, the Borrower shall pay over to the Administrative Agent in reimbursement of the applicable LC Disbursement an amount equal to the amount so charged, as provided in Section 2.03(e), and such payment shall be remitted by the Administrative Agent to the Deposit Agent for deposit in the LC Deposit Account, and shall be so deposited by the Deposit Agent. Each LC Lender acknowledges and agrees that its obligation to acquire and fund participations in respect of Letters of Credit pursuant to this Section 2.03(d) is unconditional and irrevocable and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or the return of the LC Deposits, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Without limiting the foregoing, each LC Lender irrevocably authorizes the Administrative Agent and the Deposit Agent to apply amounts of its LC Deposit as provided in this Section 2.03.

(e) Reimbursement. If an LC Issuer shall make any LC Disbursement in respect of a Letter of Credit, the Borrower shall reimburse such LC Disbursement by paying to such LC Issuer an amount equal to such LC Disbursement not later than 2:00 p.m. on (i) the Business Day that the Borrower receives notice of such LC Disbursement, if such notice is received prior to 10:00 a.m. on the day of receipt, or (ii) the Business Day immediately following the day that the Borrower receives notice of such LC Disbursement, if such notice is not received prior to such time on the day of receipt. If the Borrower fails to make any payment referred to in the preceding sentence with respect to a Letter of Credit, the applicable LC Issuer shall notify the Administrative Agent in accordance with Section 2.03(k), and the Administrative Agent shall in turn notify the Deposit Agent and each LC Lender of the applicable LC Disbursement, the payment then due from the Borrower in respect thereof and such LC Lender's Applicable Percentage thereof, and the Deposit Agent shall withdraw from the LC Deposit Account and remit to the Administrative Agent the amount of such LC Disbursement, and, upon receipt thereof, the Administrative Agent shall promptly pay to the applicable LC Issuer each LC Lender's Applicable Percentage of such LC Disbursement. Such LC Issuer shall promptly notify the Administrative Agent and the Deposit Agent of any amount subsequently received by it from the Borrower in respect of such LC Disbursement, and shall remit to the Administrative Agent any such amount promptly upon receipt thereof. Promptly following receipt by the Administrative Agent of any such remittance or of any payment by the Borrower in respect of such LC Disbursement, the Administrative Agent shall remit such payment to the Deposit Agent for deposit in the LC Deposit Account. The Borrower acknowledges that each payment made pursuant to this Section 2.03(e) in respect of any LC Disbursement is required to be made for the benefit of the distributees indicated in the immediately preceding sentence. Any payment made from the LC Deposit Account, or from funds of the Administrative Agent, pursuant to this Section 2.03(e) to reimburse an LC Issuer for any LC Disbursement shall not constitute a loan and shall not relieve the Borrower (or any other account party in respect of the relevant Letter of Credit) of its obligation to reimburse such LC Disbursement.

(f) Obligations Absolute. The Borrower's obligation to reimburse LC Disbursements as provided in Section 2.03(e) shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by an LC Issuer under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section 2.03(f), constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrower's obligations hereunder. None of the Administrative Agent, the Deposit Agent, the LC Lenders or the LC Issuers, or any of their Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of an LC Issuer; provided that the foregoing shall not be construed to excuse any LC Issuer from liability to the Borrower to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by applicable law) suffered by the Borrower that are caused by such LC Issuer's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or wilful misconduct on the part of an LC Issuer, such LC Issuer shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, the applicable LC Issuer may either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(g) Disbursement Procedures. Each LC Issuer shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit issued by it. Such LC Issuer shall promptly notify the Administrative Agent and the Borrower by telephone (confirmed by hand delivery or facsimile) of such demand for payment and whether such LC Issuer has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the Borrower of its obligation to reimburse such LC Issuer and the LC Lenders with respect to any such LC Disbursement.

(h) Interim Interest. If an LC Issuer shall make any LC Disbursement, then, unless the Borrower shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the Borrower reimburses such LC Disbursement, at a rate per annum (computed in accordance with Section 2.07(a)) equal to the rate then applicable to Base Rate Loans; provided that, if the Borrower fails to reimburse such LC Disbursement when due pursuant to Section 2.03(e), then Section 2.07(b) shall apply. Interest accrued pursuant to this Section 2.03(h) shall be for the account of the applicable LC Issuer, except that interest accrued on and after the date of payment by any LC Lender pursuant to Section 2.03(e) to reimburse such LC Issuer shall be for the account of such LC Lender to the extent of such payment.

(i) Termination of an LC Issuer. Any LC Issuer may cease to be an LC Issuer at any time by written agreement among the Borrower, the Administrative Agent and such LC Issuer. The Administrative Agent shall promptly notify the Deposit Agent and the LC Lenders of any such termination of an LC Issuer. At the time any such termination shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the terminated LC Issuer pursuant to Section 2.08(a). After the termination of an LC Issuer hereunder, such LC Issuer shall remain a party hereto and shall continue to have all the rights and obligations of an LC Issuer under this Agreement with respect to Letters of Credit issued by it prior to such termination, but shall not be required to issue additional Letters of Credit.

(j) Additional LC Issuers. The Borrower may, at any time and from time to time, with the consent of the Administrative Agent (which consent shall not be unreasonably withheld or delayed) and the designated Person, designate one or more additional Lenders or another financial institution to act as an LC Issuer under the terms of this Agreement, and any Lender so designated shall become an LC Issuer hereunder.

(k) LC Issuer Reports. Unless otherwise agreed to by the Administrative Agent, each LC Issuer shall report in writing to the Administrative Agent (i) on or prior to each Business Day on which such LC Issuer issues, amends, renews or extends any Letter of Credit, the date of such issuance, amendment, renewal or extension, and the aggregate face amount of the Letters of Credit issued, amended, renewed or extended by it and outstanding after giving effect to such issuance, amendment, renewal or extension (and whether the amount thereof shall have changed), (ii) on each Business Day on which such LC Issuer makes any LC Disbursement, the date and amount of such LC Disbursement, (iii) on any Business Day on which the Borrower fails to reimburse an LC Disbursement required to be reimbursed to such LC Issuer on such day, the date of such failure and the amount of such LC Disbursement and (iv) on any other Business Day, such other information as the Administrative Agent shall reasonably request as to the Letters of Credit issued by such LC Issuer and outstanding on such Business Day.

(l) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Administrative Agent or the Required Lenders (or, if the maturity of any Loans has been accelerated, the Required LC Lenders) demanding the deposit of cash collateral pursuant to this Section 2.03(l), the Borrower shall deposit in an account designated by the Administrative Agent, in the name of the Administrative Agent and for the ratable benefit of the LC Lenders, an amount in cash equal to the LC Exposure as of such date plus any accrued and unpaid interest thereon; provided that the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in Section 8.01(f). Such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the Obligations under this Agreement. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent and at the Borrower's risk and expense (provided that such cash collateral shall be invested solely in investments that provide for preservation of capital), such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse the LC Issuers for LC Disbursements for which they have not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of the Required LC Lenders), be applied to satisfy other obligations of the Borrower under this Agreement. If the Borrower is required to deposit cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower (i) within three Business Days after all Events of Default have been cured or waived and (ii) promptly upon the payment in full of all the Obligations and the reduction of the aggregate LC Exposure to zero.

(m) Establishment of LC Deposit Account. On or prior to the Closing Date, the Deposit Agent shall establish a deposit account (the "***LC Deposit Account***") of the Deposit Agent at Wachovia with the title "Goldman Sachs f/b/o Lenders for Spectrum Brands 2007 Credit Agreement LC Deposit Account". No Person (other than the Deposit Agent) shall have the right to make any withdrawal from the LC Deposit Account or to exercise any other right or power with respect thereto, except as expressly provided in Section 2.03(o) or Section 10.06(e). Without limiting the generality of the foregoing, each party hereto acknowledges and agrees that the LC Deposits are and will at all times be property of the LC Lenders, and that no amount on deposit at any time in the LC Deposit Account shall be the property of any of the Loan Parties, constitute Collateral under the Loan Documents or otherwise be available in any manner to satisfy any Obligations of any of the Loan Parties under the Loan Documents. Each LC Lender agrees that its right, title and interest in and to the LC Deposit Account shall be limited to the right to require amounts in its Sub-Account to be applied as provided in Section 2.03(o) and that it will have no right to require the return of its LC Deposit other than as expressly provided in Section 2.03(o) (each LC Lender hereby acknowledging (i) that its LC Deposit constitutes payment for its participations in Letters of Credit issued or to be issued hereunder, (ii) that its LC Deposit and any investments made therewith shall secure its obligations to the LC Issuers hereunder (each LC Lender hereby granting to the Deposit Agent, for the benefit of the LC Issuers, a security interest in its LC Deposit and agreeing that the Deposit Agent, as holder of the LC Deposits and any investments made therewith, will be acting, inter alia, as collateral agent for the LC Issuers) and (iii) that the LC Issuers will be issuing, amending, renewing and extending Letters of Credit in reliance on the availability of such LC Lender's LC Deposit to discharge such LC Lender's obligations in accordance with Section 2.03(e) in connection with any LC Disbursement thereunder). The funding of the LC Deposits and the agreements with respect thereto set forth in this Agreement constitute arrangements among the Administrative Agent, the Deposit Agent, the LC Issuers and the LC Lenders with respect to the funding obligations of the LC Lenders under this Agreement, and the LC Deposits do not constitute loans or extensions of credit to any Loan Party. No Loan Party shall have any responsibility or liability to the LC Lenders, the Administrative Agent, the Deposit Agent or any other Person in respect of the establishment, maintenance, administration or misappropriation of the LC Deposit Account (or any Sub-Account) or with respect to the investment of amounts held therein, including pursuant to Section 2.03(p) below. Wachovia hereby waives any right of setoff against the LC Deposits that it may have under applicable Law or otherwise with respect to amounts owed to it by LC Lenders (it being agreed that such waiver shall not reduce the rights of Wachovia, in its capacity as an LC Issuer or otherwise, to apply or require the application of the LC Deposits in accordance with the provisions of this Agreement).

(n) LC Deposits in LC Deposit Account. The following amounts will be deposited in the LC Deposit Account at the following times:

(i) On the Closing Date, each LC Lender shall deposit in the LC Deposit Account an amount in Dollars equal to such LC Lender's LC Commitment. Thereafter, the LC Deposits shall be available, on the terms and subject to the conditions set forth herein, for application pursuant to Section 2.03(e) to reimburse such LC Lender's Applicable Percentage of LC Disbursements that are not reimbursed by the Borrower.

(ii) On any date prior to the LC Maturity Date on which the Administrative Agent receives any reimbursement payment from the Borrower in respect of an LC Disbursement with respect to which amounts were withdrawn from the LC Deposit Account to reimburse any LC Issuer, or any remittance from any LC Issuer in respect of such LC Disbursement pursuant to Section 2.03(e), subject to clause (iii) below, the Administrative Agent shall remit such amounts to the Deposit Agent for deposit in the LC Deposit Account (and the Deposit Agent shall so deposit such amounts) and shall credit such amounts to the Sub-Accounts of the LC Lenders in accordance with their Applicable Percentages.

(iii) If at any time when any amount is required to be deposited in the LC Deposit Account under clause (ii) above the sum of such amount and the aggregate amount of the LC Deposits at such time would exceed the aggregate LC Commitments, then such excess shall not be remitted to the Deposit Agent or deposited in the LC Deposit Account and the Administrative Agent shall instead pay to each LC Lender its Applicable Percentage of such excess.

(o) Withdrawals From and Closing of LC Deposit Account. Amounts on deposit in the LC Deposit Account shall be withdrawn and distributed (or transferred, in the case of clause (iv) below) as follows:

(i) On each date on which an LC Issuer is to be reimbursed by the LC Lenders pursuant to Section 2.03(e) for any LC Disbursement, the Deposit Agent shall withdraw from the LC Deposit Account the amount of such unreimbursed LC Disbursement (as notified to it by the Administrative Agent) and make such amount available to the Administrative Agent in accordance with Section 2.03(e).

(ii) Concurrently with each voluntary reduction of the LC Commitments pursuant to and in accordance with Section 2.05(a), if after giving effect thereto the aggregate LC Deposits would exceed the greater of the aggregate LC Commitments and the aggregate LC Exposure, the Administrative Agent shall inform the Deposit Agent of the amount of such excess, and the Deposit Agent shall withdraw from the LC Deposit Account and remit to the Administrative Agent such amount and, upon receipt thereof, the Administrative Agent shall pay to each LC Lender such LC Lender's Applicable Percentage of such amount.

(iii) Concurrently with any reduction of the LC Commitments to zero pursuant to and in accordance with Section 2.05(a) or Article VIII, the Administrative Agent shall inform the Deposit Agent thereof and of the amount of the excess at such time of the aggregate amount of the LC Deposits over the LC Exposure, and the Deposit Agent shall withdraw from the LC Deposit Account and remit to the Administrative Agent such amount and, upon receipt thereof, the Administrative Agent shall pay to each LC Lender such LC Lender's Applicable Percentage of such amount.

(iv) Upon the reduction of each of the aggregate LC Commitments and the aggregate LC Exposure to zero, the Administrative Agent shall inform the Deposit Agent thereof and the Deposit Agent shall withdraw from the LC Deposit Account the entire remaining balance therein and remit to the Administrative Agent such amount (and shall thereupon close the LC Deposit Account) and, upon receipt thereof, the Administrative Agent shall pay to each LC Lender the entire remaining amount of such LC Lender's LC Deposit.

Each LC Lender irrevocably and unconditionally agrees that its LC Deposit may be applied or withdrawn from time to time as set forth in this Section 2.03(o).

(p) Investment of Amounts in LC Deposit Account. The Deposit Agent shall invest, or cause to be invested, the LC Deposit of each LC Lender so as to earn for the account of such LC Lender a return thereon (the "***LC Deposit Return***") for each day at a rate per annum equal to (i) the one month Eurocurrency Rate as determined by the Deposit Agent based on rates for deposits in Dollars (as set forth by Bloomberg L.P.-page BTMM or any other comparable publicly available service as may be selected by the Deposit Agent) (the "***Benchmark Eurocurrency Rate***") minus (ii) 0.15% per annum (based on a 360 day year). The Benchmark Eurocurrency Rate will be reset on the first day of each calendar month to the one month Eurocurrency Rate in effect on the second Business Day immediately prior to such first day. The LC Deposit Return accrued through and including the first day of each calendar month (or, if such first day is not a Business Day, the next Business Day) shall be payable by the Deposit Agent to the Administrative Agent, for distribution among the LC Lenders, on the third Business Day following such first day, commencing on the first such date to occur after the Closing Date, and on the date on which each of the aggregate LC Deposits and the aggregate LC Exposure shall have been reduced to zero, and the Deposit Agent agrees to pay to the Administrative Agent, for distribution among the LC Lenders, the amounts referred to in this sentence. In addition, the Borrower agrees to pay to the Administrative Agent, for the account of each LC Lender, an additional amount (payable in arrears on each date that participation fees are payable to each such LC Lender in accordance with Section 2.08(a)), accruing at the rate of 0.15% per annum (based on a 360 day year), on the daily amount of the LC Deposit of such Lender during the period from and including the date hereof to but excluding the date on which each of the LC Deposits and the LC Exposure have been reduced to zero.

(q) Sufficiency of LC Deposits to Provide for Undrawn/Unreimbursed LC Exposure. Notwithstanding any other provision contained herein, including any provision of this Section 2.03, no Letter of Credit shall be issued or increased as to its stated amount, if after giving effect to such issuance or increase, the aggregate amount of the LC Deposits would be less than the LC Exposure. The Administrative Agent agrees to provide, at the request of any LC Issuer, information to such LC Issuer as to the aggregate amount of the LC Deposits and the LC Exposure.

(r) Satisfaction of LC Lender Funding Obligations. The Borrower and each LC Issuer acknowledges and agrees that notwithstanding any other provision contained herein, the deposit by each LC Lender in the LC Deposit Account on the Closing Date of funds equal to its LC Deposit will fully discharge the obligation of such LC Lender to reimburse such LC Lender's Applicable Percentage of LC Disbursements that are not reimbursed by the Borrower pursuant to Section 2.03(e), and that no other or further payments shall be required to be made by any LC Lender in respect of any such reimbursement obligations.

(s) Sub-Accounts. The Administrative Agent shall maintain records enabling it to determine at any time the amount of the interest of each LC Lender in the LC Deposit Account (the interest of each LC Lender in the LC Deposit Account, as evidenced by such records, being referred to as such LC Lender's "***Sub-Account***"), and the amounts evidenced by such records shall be conclusive and binding on each LC Lender, absent manifest error. The Administrative Agent shall establish such additional Sub-Accounts for assignee LC Lenders as shall be required pursuant to Section 10.06(e). On the Assignment Effective Date with respect to any assignment by an LC Lender of all or any portion of its LC Commitment or LC Deposit, the Administrative Agent shall transfer from the Sub-Account of the assignor to the Sub-Account of the assignee the corresponding portion of the LC Deposit credited to the Sub-Account of the assignor (and, if required by Section 10.06(e), close the Sub-Account of the assignor), all in accordance with Section 10.06(e).

(t) Cooperation of Agents. The Deposit Agent shall provide to the Administrative Agent such information with respect to the LC Deposit Account as the Administrative Agent or an LC Issuer may from time to time request. The Administrative Agent shall provide to the Deposit Agent such information regarding the LC Lenders, the Letters of Credit and the LC Issuers as the Deposit Agent may from time to time request.

Section 2.04. Prepayments.

(a) Optional. (i) The Borrower may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay Loans in whole or in part; provided that (i) such notice must be received by the Administrative Agent not later than 1:00 p.m. three Business Days prior to the proposed date of prepayment and (ii) any such prepayment in part shall be in a principal amount of $5,000,000 or a whole multiple of $100,000 in excess thereof. Each such notice shall specify the date and amount of such prepayment and, in the case of Dollar Term Loans, the Type of Loans to be prepaid. The Administrative Agent will promptly notify each applicable Lender of its receipt of each such notice, and of the amount of such Lender's ratable portion of such prepayment (based on such Lender's Applicable Percentage in respect of the relevant Facility). Any such prepayment notice given by the Borrower shall be in writing and shall be irrevocable, and the payment amount specified in such notice shall be due and payable on the date specified therein; provided that the Borrower may rescind any such notice of prepayment of all of the Loans in full if the notice of such prepayment stated that it was conditioned on the occurrence of a specified event and such event shall not have occurred. Each prepayment of Loans pursuant to this Section 2.04(a) (1) shall be accompanied by all accrued interest thereon, together with, in the case of Eurocurrency Rate Loans, any additional amounts required pursuant to Section 3.05, (2) shall be applied to the Dollar Term B II Facility, for so long as any Dollar Term B II Loans are outstanding, and thereafter, ratably to the remaining Term Facilities and, within each Term Facility, to the remaining scheduled installments of principal due under Section 2.06 at the Borrower's election, and (3) shall be paid to the Lenders in accordance with their Applicable Percentages in respect of each of the Term Facilities.

(ii) In the event that the Loans made on the Closing Date are prepaid in full, or substantially in full, pursuant to this Section 2.04(a) on or prior to the first anniversary of the Closing Date, the Borrower shall pay to the Administrative Agent, for the account of the Term Lenders, in addition to the other amounts due at such time pursuant to the terms hereof, a prepayment premium on the amount of the aggregate principal amount of the Loans so prepaid equal to 1.00%.

(b) Mandatory.

(i) Commencing with the fiscal year of the Borrower ending September 30, 2007, within five Business Days after each delivery of financial statements pursuant to Section 6.01(a) and the related Compliance Certificate pursuant to Section 6.02(a) (and in any event within 90 days after the end of each such fiscal year of the Borrower), the Borrower shall prepay an aggregate principal amount of Loans equal to (i) 75% of the Excess Cash Flow for the fiscal year covered by such financial statements if the Senior Secured Leverage Ratio as of the last day of such fiscal year is equal to or greater than 3.00 to 1.00 or (ii) 50% of the Excess Cash Flow for such fiscal year if the Senior Secured Leverage Ratio as of the last day of such fiscal year is less than 3.00 to 1.00.

(ii) If the Borrower or any of its Subsidiaries Disposes of any assets in a Disposition referred to in Section 7.05(g), (h) or (i), the Borrower shall prepay an aggregate principal amount of Loans equal to 100% of all Net Cash Proceeds received therefrom within two Business Days after receipt thereof by the Borrower or such Subsidiary; provided, however, that the Borrower shall not be required to make any such prepayment with respect to any Disposition to the extent the aggregate Net Cash Proceeds received from such Disposition do not exceed $1,000,000; provided further, however, that at the option of the Borrower (as elected by the Borrower in writing to the Administrative Agent on or prior to the date of such Disposition), the Borrower may, except in the case of a Disposition referred to in Section 7.05(g), reinvest all or any portion of such Net Cash Proceeds (but not more than $25,000,000 in the aggregate since the Closing Date) in long-term operating assets useful in the business of the Borrower and the Subsidiaries so long as (A) no Event of Default shall have occurred and be continuing, (B) within 270 days following the receipt of such Net Cash Proceeds a definitive agreement for the purchase of such assets with such Net Cash Proceeds shall have been entered into (and the Borrower shall have certified the same in writing to the Administrative Agent) and (C) within 450 days following the receipt of such Net Cash Proceeds such purchase shall have been consummated (and the Borrower shall have certified the same in writing to the Administrative Agent); provided further, however, that (1) any Net Cash Proceeds not subject to such definitive agreement or so reinvested shall be applied to the prepayment of the Loans as set forth in this Section 2.04(b) within two Business Days of the termination of the applicable period and (2) (x) any Net Cash Proceeds received from a Disposition of assets (including Equity Interests) that constitute Collateral may only be reinvested in assets that constitute Collateral and (y) any Net Cash Proceeds received from a Disposition of assets that are directly owned by a Subsidiary the Equity Interests of which constitute Collateral may only be reinvested in assets that constitute Collateral or are directly owned by a Subsidiary the Equity Interests of which constitute Collateral.

(iii) Upon the occurrence of any Casualty Event, the Borrower shall prepay an aggregate principal amount of Loans equal to 100% of all Net Cash Proceeds received therefrom within two Business Days after receipt thereof by the Borrower or any of its Subsidiaries; provided, however, that at the option of the Borrower (as elected by the Borrower in writing to the Administrative Agent on or prior to the date such Net Cash Proceeds are received), the Borrower may apply all or any portion of such Net Cash Proceeds to repair, restore or replace the assets in respect of which such Casualty Event shall have occurred or to acquire other long-term operating assets useful in the business of the Borrower and the Subsidiaries (provided that, in the case of such other long-term operating assets, the amount of such Net Cash Proceeds used to acquire such assets shall not exceed $25,000,000 in the aggregate since the Closing Date), in each case, so long as (A) in the case of any such repair or restoration, such repair or restoration shall have been commenced within 270 days following the receipt of such Net Cash Proceeds and shall thereafter be continued by the Borrower or the applicable Subsidiary in good faith (and the Borrower shall have certified the same in writing to the Administrative Agent upon the commencement thereof and on a quarterly basis thereafter until completion) and (B) in the case of any such acquisition of replacement assets or of other long-term operating assets, (1) within 270 days following the receipt of such Net Cash Proceeds a definitive agreement for the acquisition thereof with such Net Cash Proceeds shall have been entered into, (2) within 450 days following the receipt of such Net Cash Proceeds such acquisition shall have been consummated and (3) any Net Cash Proceeds received from a Casualty Event in respect of assets that constitute Collateral shall have been reinvested only in assets that constitute Collateral (and the Borrower shall have certified all of the foregoing in writing to the Administrative Agent); provided further, however, that any Net Cash Proceeds not subject to such definitive agreement or so reinvested (and not designated for such repair or restoration) shall be applied to the prepayment of the Loans as set forth in this Section 2.04(b) within two Business Days of the termination of the applicable period (or, as applicable, promptly upon ceasing to be designated for such repair or restoration).

(iv) Upon the incurrence or issuance by the Borrower or any of its Subsidiaries of any Indebtedness (other than Indebtedness expressly permitted to be incurred or issued pursuant to Section 7.02), the Borrower shall prepay an aggregate principal amount of Loans equal to 100% of all Net Cash Proceeds received therefrom on the date of receipt thereof by the Borrower or such Subsidiary.

(v) Upon the consummation of any Equity Issuance, the Borrower shall prepay an aggregate principal amount of Loans equal to 50% of all Net Cash Proceeds received therefrom within two Business Days after receipt thereof by the Borrower or any of its Subsidiaries; provided, however, that no prepayment under this clause (v) shall be required with respect to any such Net Cash Proceeds if at the time of the receipt thereof the Senior Secured Leverage Ratio is less than 3.00 to 1.00.

(vi) Each prepayment of Loans pursuant to this Section 2.04(b) (A) shall be accompanied by accrued interest thereon, together with, in the case of Eurocurrency Rate Loans, any additional amounts required pursuant to Section 3.05, (B) shall be applied ratably to the Term Facilities and, within each Term Facility, to the remaining scheduled installments of principal due under Section 2.06 on a pro rata basis and (C) shall be paid to the Lenders in accordance with their Applicable Percentages in respect of each of the Term Facilities.

(vii) Notwithstanding any of the foregoing provisions of this Section 2.04(b), with respect to any prepayment of Eurocurrency Rate Loans required to be made hereunder the Borrower may, in its sole discretion, in lieu of prepaying such Loans on the date due deposit, no later than such date due, into a Cash Collateral Account an amount in cash equal to the amount of such required prepayment (including any accrued interest). The Administrative Agent is hereby authorized and directed (without any further action by or notice to or from the Borrower or any other Loan Party) to apply the amounts so deposited to the prepayment of such Loans and accrued interest thereon in accordance with this Section 2.04(b) on the last day of the applicable Interest Period (or, if earlier, the date on which an Event of Default shall have occurred and is continuing).

(viii) Notwithstanding any of the other provisions of this Section 2.04(b), (A) if, following the occurrence of any "Asset Sale" (as defined in any of the Indentures) by the Borrower or any of its Subsidiaries, the Borrower is required to commit by a particular date (a "***Commitment Date***") to apply or cause its Subsidiaries to apply an amount equal to any "Net Proceeds" (as defined in such Indenture) thereof in a particular manner, or to apply by a particular date (an "***Application Date***") an amount equal to any such "Net Proceeds" in a particular manner, in either case in order to excuse the Borrower from being required to make an "Asset Sale Offer" (as defined in such Indenture) in connection with such "Asset Sale", and the Borrower shall have failed to so commit or to so apply an amount equal to such "Net Proceeds" before the applicable Commitment Date or Application Date, as the case may be, or (B) if the Borrower at any other time shall have failed to apply or commit or cause to be applied an amount equal to any such "Net Proceeds" and thereafter, assuming no further application or commitment of an amount equal to such "Net Proceeds", the Borrower would otherwise be required to make an "Asset Sale Offer" in respect thereof, then in either such case the Borrower shall immediately pay or cause to be paid to the Administrative Agent such amount, to be applied to the prepayment of the Loans in the manner set forth in this Section 2.04(b), as shall excuse the Borrower from making any such "Asset Sale Offer".

Section 2.05. Termination or Reduction of Commitments.

(a) Optional. The Borrower may, upon notice to the Administrative Agent, terminate or from time to time permanently reduce the LC Commitments; provided that (i) any such notice must be received by the Administrative Agent not later than 1:00 p.m. three Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of $5,000,000 or any whole multiple of $1,000,000 in excess thereof and (iii) the Borrower shall not terminate or reduce the LC Commitments if, after giving effect thereto and any concurrent reimbursement of LC Disbursements, the aggregate LC Exposure would exceed the aggregate LC Commitments. Any such termination or reduction notice shall be in writing and shall be irrevocable; provided that the Borrower may rescind any such notice of termination of all of the LC Commitments if the notice of such termination stated that it was conditioned on the occurrence of a specified event and such event shall not have occurred. In the event that the LC Commitments are terminated in full or substantially in full pursuant to this Section 2.05(a) on or prior to the first anniversary of the Closing Date, the Borrower shall pay on the date of such termination, to the Administrative Agent for the account of the LC Lenders, in addition to the other amounts due at such time pursuant to the terms hereof, a premium payment equal to 1.00% of the aggregate amount of the LC Commitments so terminated.

(b) Automatic.

(i) Each of the Dollar Term B Commitments, the Dollar Term B II Commitments and the Euro Term Commitments shall automatically terminate on the date of, respectively, the Dollar Term B Borrowing, the Dollar Term B II Borrowing or the Euro Term Borrowing.

(ii) Each of the LC Commitments shall automatically terminate on the LC Maturity Date. The obligation of any LC Issuer to issue, amend, renew or extend any Letter of Credit shall terminate on the LC Maturity Date.

(c) Application of Commitment Reductions; Payment of Fees. The Administrative Agent will promptly notify the LC Lenders of any termination or reduction of any LC Commitments under this Section 2.05. Upon any reduction of any of the LC Commitments, the LC Commitment of each LC Lender shall be reduced by such LC Lender's Applicable Percentage of such reduction amount. All LC Lender Fees accrued on the amount of the LC Commitments so terminated or reduced to, but excluding, the date of any such termination or reduction shall be payable on the effective date of such termination or reduction.

Section 2.06. Repayment of Loans.

(a) Dollar Term B Loans. Subject to adjustment for optional and mandatory prepayments as set forth in Section 2.04, the Borrower shall repay to the Administrative Agent, for the ratable account of the Dollar Term B Lenders, the Dollar Term B Loans commencing on September 30, 2007, and continuing on the last day of each December, March, June and September occurring thereafter and prior to the Term Maturity Date, in an aggregate principal amount for each such date equal to 0.25% of the aggregate principal amount of the Dollar Term B Loans outstanding on the Closing Date.

(b) Dollar Term B II Loans. Subject to adjustment for optional and mandatory prepayments as set forth in Section 2.04, the Borrower shall repay to the Administrative Agent, for the ratable account of the Dollar Term B II Lenders, the Dollar Term B II Loans commencing on September 30, 2007, and continuing on the last day of each December, March, June and September occurring thereafter and prior to the Term Maturity Date, in an aggregate principal amount for each such date equal to 0.25% of the aggregate principal amount of the Dollar Term B II Loans outstanding on the Closing Date.

(c) Euro Term Loans. Subject to adjustment for optional and mandatory prepayments as set forth in Section 2.04, the Borrower shall repay to the Administrative Agent, for the ratable account of the Euro Term Lenders, the Euro Term Loans commencing on September 30, 2007, and continuing on the last day of each December, March, June and September occurring thereafter and prior to the Term Maturity Date, in an aggregate principal amount for each such date equal to 0.25% of the aggregate principal amount of the Euro Term Loans outstanding on the Closing Date.

(d) Term Maturity Date. To the extent not previously paid, all Loans shall be due and payable on the Term Maturity Date.

Section 2.07. Interest.

(a) Subject to the provisions of Section 2.07(b), (i) each Eurocurrency Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Eurocurrency Rate for such Interest Period plus the Applicable Rate and (ii) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing or conversion date at a rate per annum equal to the Base Rate plus the Applicable Rate.

(b) (i) If any amount of principal of any Loan or any LC Disbursement is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(ii) If any amount (other than any amount referred to in Section 2.07(b)(i)) payable by the Borrower under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, then upon the request of the Required Lenders such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(iii) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

Section 2.08. Fees.

(a) Letter of Credit Fees. The Borrower agrees to pay (i) to the Administrative Agent, for the account of each LC Lender, a participation fee with respect to its participations and commitment to participate in Letters of Credit, which shall accrue at the Applicable Rate applicable to Eurodollar Rate Loans, on the average daily amount of such LC Lender's LC Deposit (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Closing Date to but excluding the date on which such LC Lender's LC Deposit is returned to it in full and (ii) to each LC Issuer a fronting fee, which shall accrue at a rate separately agreed to by such LC Issuer and the Borrower, on the average daily amount of the portion of the LC Exposure attributable to Letters of Credit issued (or, in the case of the Existing Letters of Credit, deemed issued) by such LC Issuer (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Closing Date to but excluding the later of the date of termination of the LC Commitments and the date on which there ceases to be any LC Exposure, as well as each Issuing Bank's standard fees with respect to the issuance, amendment, renewal or extension of any Letter of Credit or processing of drawings thereunder. Participation fees and fronting fees accrued through and including the last day of March, June, September and December of each year shall be payable on the third Business Day following such last day, commencing on the first such date to occur after the Closing Date; provided that any such fees accruing after the date on which the LC Commitments shall have terminated shall be payable on demand. In addition to the foregoing fees, the Borrower agrees to pay to the Administrative Agent, for the account of each LC Lender, the fees set forth in Section 2.03(p).

(b) Agent Fees. The Borrower shall pay to the Administrative Agent and the Deposit Agent, for the respective accounts of the Administrative Agent and the Deposit Agent, fees in the amounts and at the times specified in the applicable Fee Letter.

(c) General. Fees payable hereunder shall not be refundable under any circumstances.

Section 2.09. Computation of Interest and Fees. All computations of interest for Base Rate Loans when the Base Rate is determined by reference to 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 interest and fees shall be made on the basis of a 360-day year and actual days elapsed. Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

Section 2.10. Evidence of Indebtedness. The Loans made by each Term Lender shall be evidenced by one or more accounts or records maintained by such Term Lender and by the Administrative Agent in the ordinary course of business. The accounts or records maintained by the Administrative Agent and the Term Lenders shall be prima facie evidence absent manifest error of the amount of the Loans made by the Term Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Term Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent (as set forth in the Register) shall control in the absence of manifest error.

Section 2.11. Payments Generally; Administrative Agent's Clawback.

(a) General. Except as otherwise expressly provided herein, all payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars or in Euros, as applicable, and in immediately available funds not later than 2:00 p.m. on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Applicable Percentage in respect of the relevant Facility (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 2:00 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day and such extension of time shall be reflected on computing interest or fees, as the case may be.

(b) Payments by Borrower; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrower prior to the time at which any payment is due to the Administrative Agent for the account of the Lenders or any LC Issuer hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the applicable Lenders or such LC Issuer, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the applicable Lenders or such LC Issuer, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or such LC Issuer, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate (in the case of Loans denominated in Dollars) or the Overnight Rate (in the case of Loans denominated in Euros) and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. A notice of the Administrative Agent to any Lender, any LC Issuer or the Borrower with respect to any amount owing under this Section 2.11(b) shall be conclusive, absent manifest error.

(c) Failure to Satisfy Conditions Precedent. If any Lender makes available to the Administrative Agent or the Deposit Agent funds for any Loan or any LC Deposit to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not used as contemplated by this Article II because the conditions precedent thereto set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent or the Deposit Agent, as applicable, shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) Obligations of Lenders Several. The obligations of the Lenders hereunder to make Loans, to make deposits required under Section 2.03(a) and to make payments pursuant to Section 9.06 are several and not joint. The failure of any Lender to make any Loan, to make any such deposit or to make any such payments on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan or to so deposit or make its payments.

(e) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

(f) Insufficient Payment. If at any time insufficient funds are received by and available to the Administrative Agent to pay in full all amounts of principal, unreimbursed LC Disbursements, interest and fees then due hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) second, towards payment of principal and unreimbursed LC Disbursements then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and unreimbursed LC Disbursements then due to such parties.

(g) Currency Exchange. To the extent that the Administrative Agent receives funds for application to the amounts owing by the Borrower under or in respect of this Agreement in currencies other than the currency or currencies required to enable the Administrative Agent to distribute funds to the Lenders in accordance with the terms of this Agreement, the Administrative Agent shall be entitled to convert or exchange such funds into Dollars or into Euros, as the case may be, to the extent necessary to enable the Administrative Agent to distribute such funds in accordance with the terms of this Agreement; provided that the Borrower and each of the Lenders hereby agree that the Administrative Agent shall not be liable or responsible for any loss, cost or expense suffered by the Borrower or such Lender as a result of any conversion or exchange of currencies affected pursuant to this Section 2.11(g) or as a result of the failure of the Administrative Agent to effect any such conversion or exchange; and provided further that the Borrower agrees to indemnify the Administrative Agent and each Lender, and hold the Administrative Agent and each Lender harmless, for any and all losses, costs and expenses incurred by the Administrative Agent or any Lender for any conversion or exchange of currencies (or the failure to convert or exchange any currencies) or which result in the Administrative Agent or the Lenders receiving a lower amount that they would have received had such currency not been required to be so converted or exchanged, in accordance with this Section 2.11(g).

Section 2.12. Sharing of Payments by Lenders. If any Lender shall, by exercising any right of setoff or counterclaim or any right in respect of Collateral or otherwise, obtain payment in respect of any principal of or interest on any of the Loans made by it, or the participations in LC Disbursements held by it, resulting in such Lender's receiving payment of a proportion of the aggregate amount of such Loans or participations and accrued interest thereon greater than its pro rata share thereof of the applicable Facility as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact and (b) purchase (for cash at face value) participations in the Loans and subparticipations in LC Disbursements of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and participations in LC Disbursements, provided that:

(i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(i) the provisions of this Section 2.12 shall not be construed to apply to (A) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement, (B) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or subparticipations in LC Disbursements to any assignee or participant, other than to the Borrower or any Subsidiary or other Affiliate thereof (as to which the provisions of this Section 2.12 shall apply) or (C) any payment made to a Non-Consenting Lender pursuant to Section 10.12(b).

The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable Law, that any Lender acquiring a participation or subparticipation pursuant to the foregoing arrangements may exercise against the Borrower rights of setoff and counterclaim with respect to such participation or subparticipation as fully as if such Lender were a direct creditor of the Borrower in the amount thereof.

ARTICLE III

TAXES, YIELD PROTECTION AND ILLEGALITY

Section 3.01. Taxes.

(a) Payments Free of Taxes. Any and all payments by or on account of any obligation of the Borrower hereunder or under any other Loan Document shall be made free and clear of and without reduction or withholding for any Indemnified Taxes or Other Taxes, provided that if the Borrower shall be required by applicable Law to deduct any Indemnified Taxes (including any Other Taxes) from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 3.01) an Agent, a Lender or an LC Issuer, as the case may be, receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions and (iii) the Borrower shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable Law.

(b) Payment of Other Taxes by the Borrower. Without limiting the provisions of subsection (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Indemnification by the Borrower. The Borrower shall indemnify each Agent, each Lender and each LC Issuer, within 30 days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid by such Agent, such Lender or such LC Issuer, as the case may be, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto (provided that such penalties, interests and expenses are not attributable to the gross negligence or willful misconduct of such Agent, such Lender or such LC Issuer), whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment, setting forth in reasonable detail the calculation and basis for such amount, delivered to the Borrower by an Agent (other than the Administrative Agent), a Lender or an LC Issuer (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or an LC Issuer, shall be conclusive absent manifest error.

(d) Change in Place of Organization. The Borrower shall not be required pursuant to this Section 3.01 to pay any additional amount to, or to indemnify, any Agent, any Lender or any LC Issuer, as the case may be, to the extent such Agent, such Lender or LC Issuer becomes subject to Taxes subsequent to the date on which such Agent, such Lender or LC Issuer becomes a party to this Agreement as a result of a change in the place of organization of such Agent, such Lender or LC Issuer, except to the extent that any such change is requested or required by the Borrower (and provided that nothing in this clause (d) shall be construed as relieving the Borrower from any obligation to make such payments or indemnification in the event of a Change in Law, including a Change in Law after the date of such change of place of organization).

(e) Evidence of Payments. As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Borrower to a Governmental Authority, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(f) Status of Lenders. Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which the Borrower is resident for tax purposes, or any treaty to which such jurisdiction is a party, with respect to payments hereunder or under any other Loan Document shall deliver to the Borrower or the relevant Governmental Authority (with a copy to the Administrative Agent), at the time or times prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable Law as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to withholding or information reporting requirements.

Without limiting the generality of the foregoing, if the Borrower is resident for tax purposes in the United States:

(i) any Foreign Lender shall deliver to the Borrower and the Administrative Agent, or to such Persons as they may reasonably designate (in such number of copies as shall be requested by the recipient), on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent, but only if such Foreign Lender is legally entitled to do so), whichever of the following is applicable:

(A) duly completed originals of Internal Revenue Service Form W-8BEN claiming eligibility for benefits of an income tax treaty to which the United States is a party,

(B) duly completed originals of Internal Revenue Service Form W-8ECI,

(C) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, (A) a certificate to the effect that such Foreign Lender is not (1) a "bank" within the meaning of section 881(c)(3)(A) of the Code, (2) a "10 percent shareholder" of the Borrower within the meaning of section 881(c)(3)(B) of the Code, or (3) a "controlled foreign corporation" described in section 881(c)(3)(C) of the Code and (B) duly completed originals of Internal Revenue Service Form W-8BEN, or

(D) any other form prescribed by applicable law as a basis for claiming exemption from or reduction in United States Federal withholding tax (including any successor form to those referenced in Sections 3.01(f)(i)-(iii)) duly completed together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower to determine the withholding or deduction required to be made, and

(ii) any Lender that is not a Foreign Lender shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent) a duly completed Internal Revenue Service Form W-9 (or successor form thereto) or shall otherwise prove that it is exempt from backup withholding.

(g) Treatment of Certain Refunds. If any Agent, any Lender or any LC Issuer becomes aware that it is entitled to claim a refund from a Governmental Authority in respect of Indemnified Taxes or Other Taxes paid by the Borrower pursuant to this Section 3.01, such Agent, such Lender or such LC Issuer, as the case may be, shall promptly notify the Borrower of the availability of such refund claim and, within 30 days after receipt of a request by the Borrower, make a claim to such Governmental Authority for such refund. If any Agent, any Lender or any LC Issuer determines, in its reasonable discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section, it shall pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of such Agent, such Lender or such LC Issuer, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Borrower, upon the request of such Agent, such Lender or such LC Issuer, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to such Agent, such Lender or such LC Issuer in the event such Agent, such Lender or such LC Issuer is required to repay such refund to such Governmental Authority. This subsection shall not be construed to require any Agent, any Lender or any LC Issuer to make available its tax returns (or any other information relating to its taxes that it reasonably deems confidential) to the Borrower or any other Person.

Section 3.02. Illegality.

If any Term Lender determines in good faith that any Change in Law has made it unlawful, or that any Governmental Authority has asserted after the Closing Date that it is unlawful, for such Term Lender or its applicable Lending Office to make, maintain or fund Eurocurrency Rate Loans, or to determine or charge interest rates based upon the Eurocurrency Rate, or any Governmental Authority has imposed material restrictions on the authority of such Term Lender to purchase or sell, or to take deposits of, Dollars or Euros in the London interbank market, then, on notice thereof by such Term Lender to the Borrower through the Administrative Agent, any obligation of such Term Lender to make or continue Eurocurrency Rate Loans or to convert Base Rate Loans to Eurocurrency Rate Loans shall be suspended until such Term Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower shall, upon demand from such Term Lender (with a copy to the Administrative Agent), (a) with respect to Loans denominated in Dollars, prepay or, if applicable, convert all Eurodollar Rate Loans of such Lender to Base Rate Loans and (b) with respect to Loans denominated in Euros, exchange all such Loans into the Equivalent thereof in Dollars and convert such Loans to Base Rate Loans, in each case either on the last day of the Interest Period therefor, if such Term Lender may lawfully continue to maintain such Eurocurrency Rate Loans to such day, or immediately, if such Term Lender may not lawfully continue to maintain such Eurocurrency Rate Loans. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted and amounts due pursuant to Section 3.05, if any.

Section 3.03. Inability to Determine Rates. If the Required Term Lenders determine, for any reason in connection with any request for a conversion to, or continuation as, Eurocurrency Rate Loans, that (a) adequate and reasonable means do not exist for determining the Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan or (b) the Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan does not adequately and fairly reflect the cost to such Term Lenders of funding such Loan, the Administrative Agent will promptly so notify the Borrower and each Term Lender. Thereafter, until the Administrative Agent (upon the instruction of the Required Term Lenders) revokes such notice, (i) any request for a conversion of any Dollar Term Loan to, or continuation of any Eurodollar Rate Loan as, a Eurodollar Rate Loan shall be ineffective and (ii) each outstanding Euro Term Loan, at the end of the Interest Period then applicable thereto, shall bear interest at the Applicable Rate for Euro Term Loans plus a rate determined by the Administrative Agent to be representative of the Euro Term Lenders' cost of funding such Loans. Each determination by the Administrative Agent pursuant to this Section 3.03 under shall be conclusive absent manifest error.

Section 3.04. Increased Costs; Reserves on Eurocurrency Rate Loans.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender;

(ii) subject any Lender or any LC Issuer to any tax of any kind whatsoever with respect to this Agreement, any Letter of Credit, any participation in a Letter of Credit or any Eurocurrency Rate Loan made by it, or change the basis of taxation of payments to such Lender or any LC Issuer in respect thereof (except for Indemnified Taxes or Other Taxes covered by Section 3.01 and any Excluded Tax); or

(iii) impose on any Lender or any LC Issuer or the London interbank market any other condition, cost or expense affecting this Agreement or Eurocurrency Rate Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurocurrency Rate Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or such LC Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or such LC Issuer hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or such LC Issuer, the Borrower will pay to such Lender or such LC Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or such LC Issuer, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender or any LC Issuer determines that any Change in Law affecting such Lender or such LC Issuer or any Lending Office of such Lender or such Lender's or such LC Issuer's holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's or such LC Issuer's capital or on the capital of such Lender's or such LC Issuer's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such LC Issuer, to a level below that which such Lender or such LC Issuer or such Lender's or such LC Issuer's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such LC Issuer's policies and the policies of such Lender's or such LC Issuer's holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender or such LC Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or such LC Issuer or such Lender's or such LC Issuer's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or an LC Issuer setting forth the amount or amounts necessary to compensate such Lender or such LC Issuer or its holding company, as the case may be (which certificate shall set forth in reasonable detail the basis for and calculation thereof), as specified in subsection (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender or such LC Issuer, as the case may be, the amount shown as due on any such certificate within 10 Business Days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or any LC Issuer to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's or such LC Issuer's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender or an LC Issuer pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than nine months prior to the date that such Lender or such LC Issuer, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or such LC Issuer's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

Section 3.05. Compensation for Losses. Upon written demand of any Term Lender (with a copy to the Administrative Agent) from time to time, the Borrower shall promptly compensate such Term Lender for and hold such Term Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Borrower; or

(c) any assignment of a Eurocurrency Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 10.12;

excluding any loss of anticipated profits, but including any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained. The Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each Eurocurrency Rate Loan made by it at the Eurocurrency Base Rate used in determining the Eurocurrency Rate for such Loan by a matching deposit or other borrowing in the London interbank eurocurrency market for a comparable amount and for a comparable period, whether or not such Eurocurrency Rate Loan was in fact so funded.

Section 3.06. Mitigation Obligations; Replacement of Lenders.

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.04, or the Borrower is required to pay, or delivers to such Lender and the Administrative Agent a certificate setting forth reasons it reasonably anticipates that it will be required to pay, any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then such Lender shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender requests compensation under Section 3.02 or 3.04, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, the Borrower may replace such Lender in accordance with Section 10.12.

Section 3.07. Survival. All of the Borrower's and Lenders' obligations under this Article III shall survive termination of the Commitments and repayment of all other Obligations hereunder.

ARTICLE IV

CONDITIONS PRECEDENT TO EFFECTIVENESS

The obligations of the Term Lenders to make Loans, of the LC Lenders to make the LC Deposits and of the LC Issuers to issue Letters of Credit hereunder (and the designation of the Existing Letters of Credit as Letters of Credit hereunder) is subject to satisfaction of the following conditions precedent:

(a) The Administrative Agent shall have received the following, in each case where applicable properly executed by a Responsible Officer of the signing Loan Party, dated the Closing Date (or, in the case of certificates of governmental officials, a recent date before the Closing Date) and in form and substance satisfactory to the Administrative Agent and the Lenders:

(i) a counterpart of this Agreement signed on behalf of the Borrower;

(ii) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may reasonably request to evidence the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party or is to be a party, except to the extent the failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect;

(iii) such documents and certifications as the Administrative Agent may reasonably request to evidence that each Loan Party is duly organized or formed, and that each Loan Party is validly existing, in good standing and qualified to engage in business in each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification;

(iv) a favorable opinion of Skadden, Arps, Slate, Meagher & Flom LLP, counsel to the Loan Parties, addressed to each Agent, each Lender and each LC Issuer and dated the Closing Date, and covering such matters as the Administrative Agent may reasonably request;

(v) a favorable opinion of such local counsel to the Loan Parties, in each case addressed to each Agent, each Lender and each LC Issuer and dated the Closing Date, and covering such matters concerning the Loan Parties and the Loan Documents, as the Administrative Agent may reasonably request;

(vi) a certificate of a Responsible Officer of the Borrower either (A) attaching copies of all material consents, licenses and approvals required in connection with the execution, delivery and performance by any Loan Party and the validity against any Loan Party of the Loan Documents to which it is a party, which consents, licenses and approvals shall be in full force and effect, or (B) stating that no such consents, licenses or approvals are so required;

(vii) a certificate of a Responsible Officer of the Borrower certifying that the conditions specified in clauses (c) and (d) of this Article IV have been satisfied;

(viii) a certificate from the chief financial officer of the Borrower attesting to the Solvency of the Loan Parties before and after giving effect to the Transactions;

(ix) a certificate from the chief financial officer of the Borrower to the effect that, after giving effect to the Transactions to be consummated on the Closing Date, the Borrower and the Subsidiaries shall have at least $70,000,000 of unrestricted cash and Cash Equivalents;

(x) a certified copy of the 2013 Supplemental Indenture, duly executed by the parties thereto, which shall be consistent with the Exchange Offer Circular and otherwise be in form and substance reasonably satisfactory to the Administrative Agent and which shall have become or shall simultaneously become effective in accordance with the terms of the 2013 Original Indenture;

(xi) a certified copy of the 2013 New Indenture, duly executed by the parties thereto, which shall be consistent with the Exchange Offer Circular and otherwise be in form and substance reasonably satisfactory to the Administrative Agent;

(xii) a notice of borrowing under Section 2.02;

(xiii) a Perfection Certificate, together with all attachments contemplated thereby, including the results of a search of the Uniform Commercial Code (or equivalent) filings made with respect to the Loan Parties in the jurisdictions contemplated by the Perfection Certificate and copies of the financing statements (or similar documents) disclosed by such search and evidence reasonably satisfactory to the Administrative Agent that the Liens indicated by such financing statements are Permitted Liens or have been released; and

(xiv) evidence that the commitments under the Existing Credit Agreement shall have been, or shall substantially concurrently be, terminated, all loans and other amounts outstanding thereunder shall have been, or shall substantially concurrently be, paid in full and all Liens securing the obligations thereunder and under any related agreements shall have been, or shall substantially concurrently be, released.

(b) The Guarantee and Collateral Requirement (other than the requirements set forth in clauses (e), (f) and (g) of the definition of such term) shall have been satisfied.

(c) The Borrower (i) shall have accepted, or substantially concurrently shall accept, for exchange all of the 2013 Original Notes validly tendered and not validly withdrawn pursuant to the Exchange Offer and issued 2013 New Notes in exchange therefor and (ii) shall have received the Requisite Consents (as defined in the Exchange Offer Circular).

(d) (i) The representations and warranties of the Borrower and each other Loan Party contained in Article V or in any other Loan Document shall be true and correct in all material respects on and as of the Closing Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date; and (ii) no Default shall have occurred and be continuing or would result from such proposed making of Loans or application of the proceeds therefrom or from the issuance of the Letters of Credit.

(e) The Lenders shall have received the financial statements referred to in Section 5.05.

(f) The Lenders shall have received financial projections of the Borrower and its Subsidiaries for the years 2007 through 2010, in form and substance satisfactory to the Lenders.

(g) The Administrative Agent shall have received evidence that the insurance required by Section 6.08 and by the Guarantee and Collateral Agreement is in effect.

(h) All fees required to be paid to the Agents and the Arrangers on or before the Closing Date shall have been paid. All costs and expenses (including legal fees and expenses, title premiums, survey charges and recording taxes and fees) required to be paid to the Agents and the Arrangers shall have been paid to the extent due and invoiced.

(i) There shall exist no action, suit, investigation, litigation or proceeding affecting the Borrower or any of its Subsidiaries pending or, to the knowledge of the Borrower, threatened before any Governmental Authority or arbitrator that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

(j) All material governmental authorizations and all third party consents and approvals necessary in connection with the Transactions shall have been obtained and shall remain in effect.

(k) The Lenders shall have received all documentation and other information required by bank regulatory authorities under applicable "know-your-customer" and anti-money laundering rules and regulations.

Notwithstanding the foregoing, if the Borrower shall have used commercially reasonable efforts to procure and deliver, but shall nevertheless be unable to deliver, any mortgages, foreign pledge agreements and control agreements required to perfect Liens on the Collateral, or any related lien searches, agreements of third parties or documents from public officials, such delivery shall not be a condition precedent to the obligations of the Term Lenders, the LC Lenders or the LC Issuers hereunder on the Closing Date, but shall be required to be accomplished as provided in Section 6.18.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Administrative Agent and the Lenders that:

Section 5.01. Existence, Qualification and Power; Compliance with Laws. Each Loan Party and each of its Subsidiaries (other than any Dormant Subsidiaries) (a) is duly organized or formed and validly existing under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority and all requisite governmental licenses, authorizations (including good standing), consents and approvals (i) to own or lease its assets and carry on its business and (ii) to execute, deliver and perform its obligations under the Loan Documents to which it is or is to be a party and to consummate the Transactions, (c) is duly qualified and is licensed and in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license and (d) is in compliance with all Laws and licenses, authorizations and permits of Governmental Authorities in favor of such Loan Party, except in the case of clauses (b)(i), (c) and (d), to the extent that failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 5.02. Authorization; No Contravention. The execution, delivery and performance by each Loan Party of each Loan Document to which such Loan Party is or is to be a party are within such Loan Party's corporate or other powers, have been duly authorized by all necessary corporate or other organizational action and do not and will not, except to the extent that such breach, contravention or conflict could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (a) contravene the terms of any of such Loan Party's Organization Documents, (b) conflict with or result in any breach or contravention of, or the creation of any Lien (other than Permitted Liens) under, or require any payment to be made under (i) any Contractual Obligation to which such Loan Party is a party or, to such Loan Party's knowledge, affecting such Loan Party or the properties of such Loan Party or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Loan Party or its property is subject, or (c) violate any Law or any license, authorization or permit of a Governmental Authority reasonably necessarily in the conduct of such Loan Party's business. Each Loan Party and each Subsidiary thereof is in compliance with all Contractual Obligations referred to in clause (b)(i), except to the extent that failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 5.03. Governmental Authorization; Other Consents. No approval, consent, exemption, authorization or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with (a) the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document, or for the consummation of the Transactions, except those approvals, consents, exemptions, authorizations or other actions the failure of which to obtain or take could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (b) the grant by any Loan Party of the Liens granted by it pursuant to the Collateral Documents, (c) the perfection or maintenance of the Liens created under the Collateral Documents, other than UCC filings and other filings specifically contemplated by the Collateral Documents, or (d) the exercise by any Agent, any Lender or any LC Issuer of its rights under the Loan Documents or the remedies in respect of the Collateral pursuant to the Collateral Documents, except for (i) filings necessary to perfect the Liens on the Collateral granted by the Loan Parties pursuant to the Collateral Documents and (ii) approvals, consents, exemptions, authorizations, deletions, notices and filings that (A) have been duly obtained, taken, given or made and are in full force and effect or (B) the failure of which to obtain, take, give or make could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 5.04. Binding Effect. This Agreement has been, and each other Loan Document when delivered hereunder will have been, duly executed and delivered by each Loan Party that is party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, except to the extent such enforceability may be limited by the effect of applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally and by equitable principles relating to enforceability.

Section 5.05. Financial Statements; No Material Adverse Effect.

(a) The Borrower has previously made available to the Lenders its consolidated balance sheets and consolidated statements of operations, shareholders' equity and cash flows (i) as of and for the fiscal years ended September 30, 2006, 2005 and 2004, reported on by KPMG LLP, and (ii) as of and for the fiscal quarter ended December 31, 2006. Such financial statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein and except, in the case of such quarterly financial statements, the normal year-end audit adjustments and the absence of footnotes, (ii) in all material respects fairly present the financial condition and shareholders' equity of the Borrower and its Subsidiaries as of the dates thereof and their results of operations and cash flows for the periods covered thereby and (iii) show all material Indebtedness and other liabilities, direct or contingent, of the Borrower and its Subsidiaries as of the dates thereof, including liabilities for taxes and material commitments.

(b) Except with respect to any events disclosed in the Borrower's Current Reports on Form 8-K dated January 10, 2007 and March 12, 2007, since September 30, 2006, there has been no event or circumstance that, individually or in the aggregate, has had or could reasonably be expected to have a Material Adverse Effect.

Section 5.06. Litigation. Except as disclosed on Schedule 5.06, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, against the Borrower or any of its Subsidiaries or against any of their properties or revenues that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 5.07. No Default. Neither the Borrower nor any Subsidiary is in default under or with respect to, or a party to, any Contractual Obligation that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 5.08. Ownership of Property.

(a) The Borrower and each of its Subsidiaries has (i) good title to, or valid leasehold interest in, all of its personal property necessary or used in the ordinary conduct of its business and (ii) good, indefeasible and insurable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its business, except where failure to have such title or other property interests could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) Schedule 5.08(b) sets forth a complete and accurate list of all real property owned by each Loan Party that, as of the Closing Date, has an estimated fair market value of $5,000,000 or more, in each case showing as of the Closing Date the street address, county or other relevant jurisdiction, state, record owner and estimated fair value thereof. Each Loan Party has good, indefeasible and insurable fee simple title to the real property owned by such Loan Party, free and clear of all Liens, other than Permitted Liens.

(c) Schedule 5.08(c) sets forth a complete and accurate list of all leases of real property under which any Loan Party is the lessee and which would constitute, as of the date hereof, Mortgaged Properties, showing as of the date hereof the street address, county or other relevant jurisdiction, state, lessor, lessee and expiration date thereof. Each such lease is the legal, valid and binding obligation of the lessor (assuming corporate power and authority and due execution and delivery on the part of the lessor with respect to such lease) thereof, enforceable in accordance with its terms.

Section 5.09. Environmental Compliance.

(a) The Borrower and its Subsidiaries, and the facilities and properties owned or leased by the Borrower and its Subsidiaries, are and have been in compliance with all Environmental Laws, except for such noncompliance as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(b) Except as set forth in Schedule 5.09, none of the properties currently or, to the knowledge of the Borrower, formerly owned or operated by the Borrower or any of its Subsidiaries is listed or proposed for listing on the NPL or on the CERCLIS or any analogous foreign, state or local list; and, except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, Hazardous Materials have not been Released at, on, under or from any property currently or, to the knowledge of the Borrower, formerly owned or operated by the Borrower or any of its Subsidiaries.

(c) Except as set forth on Schedule 5.09 or as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, neither the Borrower nor any of its Subsidiaries is undertaking, and has not completed, either individually or together with other potentially responsible parties, any investigation or assessment or remedial or response action relating to any actual or threatened Release of Hazardous Materials at any site, location or operation, either voluntarily or pursuant to the order of any Governmental Authority or the requirements of any Environmental Law; and all Hazardous Materials generated, used, treated, handled or stored at, or transported to or from, any property currently or formerly owned or operated by the Borrower or any of its Subsidiaries have been disposed of in a manner not reasonably expected to result, individually or in the aggregate, in a Material Adverse Effect.

(d) There are no pending or threatened claims, actions, suits, proceedings, or investigations against the Borrower or any of its Subsidiaries by any Government Authority or any other party arising under or relating to any Environmental Law, except for such claims, actions, suits, proceedings or investigations that, individually or in the aggregate, are not reasonably likely to result in a Material Adverse Effect.

Section 5.10. Insurance. The properties of the Borrower and its Subsidiaries are insured with financially sound and reputable insurance companies not Affiliates of the Borrower, in such amounts (after giving effect to any self-insurance compatible with the following standards), with such deductibles and covering such risks as are customarily carried by companies engaged in the same or similar businesses and owning similar properties in localities where the Borrower or the applicable Subsidiary operates.

Section 5.11. Taxes. The Borrower and its Subsidiaries have filed all material Federal, state and other material tax returns and reports required to be filed, and have paid all material Federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except (a) those that are not overdue by more than 30 days, (b) those that are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP or (c) to the extent that the failure to make such filings could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. There is no proposed tax assessment against the Borrower or any Subsidiary that would, if made, have a Material Adverse Effect. Neither the Borrower nor any of its Subsidiaries is party to any tax sharing agreement with any other Person (other than the Borrower and its Subsidiaries) pursuant to which it is liable for any Taxes of any Person that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 5.12. ERISA Compliance.

(a) Each Plan is in compliance in all material respects with its terms, the applicable provisions of ERISA, the Code and other federal or state Laws. Each Plan that is intended to qualify under Section 401(a) of the Code is so qualified, and to the knowledge of the Borrower, nothing has occurred that could reasonably be expected to cause the loss of such qualification. There are no pending or, to the knowledge of the Borrower, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

(b) No ERISA Event has occurred or could reasonably be expected to occur that, individually or in the aggregate, has had or could reasonably be expected to have a Material Adverse Effect. No Pension Plan has any Unfunded Pension Liability, except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(c) With respect to each scheme or arrangement mandated by a Governmental Authority outside the United States (a "***Foreign Government Scheme or Arrangement***") and with respect to each employee benefit plan maintained or contributed to by any Loan Party or any Subsidiary of any Loan Party that is not subject to United States law (a "***Foreign Plan***"), except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect:

(i) any employer and employee contributions required by law or by the terms of any Foreign Government Scheme or Arrangement or any Foreign Plan have been made, or, if applicable, accrued in accordance with normal accounting practices;

(ii) the fair market value of the assets of each funded Foreign Plan, the liability of each insurer for any Foreign Plan funded through insurance or the book reserve established for any Foreign Plan, together with any accrued contributions, is sufficient to procure or provide for the accrued benefit obligations, as of the date hereof, with respect to all current and former participants in such Foreign Plan according to the actuarial assumptions and valuations most recently used to account for such obligations in accordance with applicable generally accepted accounting principles; and

(iii) each Foreign Plan required to be registered has been registered and has been maintained in good standing with applicable regulatory authorities.

Section 5.13. Subsidiaries; Equity Interests. As of the Closing Date, the Borrower has no Subsidiaries other than those set forth on Schedule 5.13, and all of the outstanding Equity Interests in such Subsidiaries have been validly issued, are fully paid and non-assessable and are owned by the Borrower or its Subsidiaries in the amounts specified on Schedule 5.13, free and clear of all Liens except those permitted under Section 7.01(a), (c), (h), (j) or (m). As of the Closing Date, no Loan Party holds Equity Interests in any Person except as set forth on Schedule 5.13.

Section 5.14. Margin Regulations; Investment Company Act.

(a) Following the application of the proceeds of each Borrowing or drawing under each Letter of Credit, not more than 25% of the value of the assets (of the Borrower only, or of the Borrower and its Subsidiaries on a consolidated basis) subject to the provisions of Section 7.01 or Section 7.05 or subject to any restriction contained in any agreement or instrument between the Borrower and any Lender or any Affiliate of any Lender relating to Indebtedness and within the scope of Section 8.01(e) will be margin stock.

(b) None of the Borrower, any Person Controlling the Borrower or any Subsidiary is or is required to be registered as an "investment company" under the Investment Company Act of 1940.

Section 5.15. Disclosure. The Borrower has disclosed to the Administrative Agent and the Lenders all agreements, instruments and corporate or other restrictions to which the Borrower or any of its Subsidiaries is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. Neither the Information Memorandum nor any report, financial statement, certificate or other written or formally presented information furnished by or on behalf of the Loan Parties to the Administrative Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or under any other Loan Document (in each case taken as a whole and as modified or supplemented by other information so furnished) contains any untrue statement of a material fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, the Borrower represents only that such information was prepared in good faith based upon assumptions believed by the Borrower to be reasonable at the time made, it being understood that actual results may vary from such projections, and such variations may be material.

Section 5.16. Intellectual Property; Licenses, Etc. The Borrower and its Subsidiaries own, or possess the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other intellectual property rights (collectively, "***IP Rights***") that are necessary for the operation of their businesses, without conflict with the rights of any other Person, except to the extent that the failure to so own or possess any such IP Rights (or any conflict pertaining thereto) could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. To the knowledge of the Borrower, none of the IP Rights currently used, or currently contemplated to be used, by the Borrower or any of its Subsidiaries infringes upon any valid rights held by any other Person, except to the extent that such infringement could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Except as specifically disclosed in Schedule 5.16, no claim or litigation regarding any of the foregoing is pending or, to the knowledge of the Borrower, threatened, that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 5.17. Solvency. The Loan Parties are, on a consolidated basis, Solvent.

Section 5.18. Senior Debt Status. On the Closing Date, no Indebtedness or other obligations, other than the Obligations, constitute "Designated Senior Debt" under any of the Indentures.

ARTICLE VI

AFFIRMATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan, any LC Disbursement or any interest or fees payable hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding (other than any Letter of Credit the obligations of the Borrower under which shall have been cash collateralized or supported by letters of credit of other banks naming the applicable LC Issuer as the beneficiary in a manner satisfactory to such LC Issuer), the Borrower shall, and, except in the case of the covenants set forth in Sections 6.01, 6.02, 6.03, 6.11, 6.16 and 6.17 shall cause each Subsidiary to:

Section 6.01. Financial Statements. Deliver to the Administrative Agent, to be made available to the Lenders:

(a) as soon as available, but in any event within 90 days after the end of each fiscal year of the Borrower (or, if later, by the date the Annual Report on Form 10-K of the Borrower for such fiscal year would have been required to be filed under the rules and regulations of the SEC, giving effect to any automatic extension available thereunder for filing of such form), a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of operations, shareholders' equity and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all prepared in accordance with GAAP, such consolidated financial statements to be audited and accompanied by a report and opinion of a "big four" national accounting firm or other Registered Public Accounting Firm of nationally recognized standing reasonably acceptable to the Administrative Agent, which report and opinion shall be prepared in accordance with generally accepted auditing standards and applicable Securities Laws;

(b) as soon as available, but in any event within 45 days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower (or, if later, by the date the Quarterly Report on Form 10-Q of the Borrower for such fiscal quarter would have been required to be filed under the rules and regulations of the SEC, giving effect to any automatic extension available thereunder for filing of such form), a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter, and the related consolidated statements of operations, shareholders' equity and cash flows for such fiscal quarter and for the portion of the Borrower's fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail and certified by the chief financial officer of the Borrower as fairly presenting the financial condition, results of operations, shareholders' equity and cash flows of the Borrower and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes; and

(c) as soon as available, but in any event within 91 days after the end of each fiscal year of the Borrower, forecasts prepared by management of the Borrower, in form reasonably satisfactory to the Administrative Agent, of the operating budget and cash flow budget of the Borrower and its Subsidiaries for the succeeding fiscal year, such projections to be accompanied by a certificate of the chief financial officer of the Borrower to the effect that (i) such projections were prepared by the Borrower in good faith, (ii) the Borrower has a reasonable basis for the assumptions contained in such projections and (iii) such projections have been prepared in accordance with such assumptions, it being understood that actual results may vary from such projections, and such variations may be material.

As to any information contained in materials furnished pursuant to Section 6.02(d), the Borrower shall not be separately required to furnish such information under Section 6.01(a) or (b), but the foregoing shall not be in derogation of the obligation of the Borrower to furnish the information and materials described in Sections 6.01(a) and (b) at the times specified therein.

Section 6.02. Certificates; Other Information. Deliver to the Administrative Agent, to be made available to the Lenders:

(a) concurrently with the delivery of the financial statements referred to in Sections 6.01(a) and (b), a duly completed Compliance Certificate signed by a Responsible Officer of the Borrower, which shall include, to the extent applicable, the computations of pro forma calculations referred to in the definition of the terms Consolidated EBITDA and Consolidated Interest Expense;

(b) concurrently with the delivery of the financial statements referred to in Section 6.01(a), a certificate of a Responsible Officer of the Borrower that all notices required to be provided under Section 6.13 have been provided;

(c) promptly after any request by the Administrative Agent, copies of any final management letters submitted to the board of directors (or the audit committee of the board of directors) of any Loan Party by independent accountants;

(d) promptly after the same becomes publicly available, copies of each annual report, proxy or financial statement or other report or communication sent to the stockholders of the Borrower, and copies of all annual, regular, periodic and special reports and registration statements that the Borrower files or is required to file with the SEC under Section 13 or 15(d) of the Securities Exchange Act of 1934, or with any national securities exchange, and in any case not otherwise required to be delivered pursuant to this Section 6.02;

(e) promptly after the furnishing thereof, copies of any statement or report furnished to any holder of debt securities of the Borrower or of any of its Subsidiaries pursuant to the terms of any indenture, loan or credit or similar agreement and not otherwise required to be delivered pursuant to this Section 6.02;

(f) promptly and in any event within five Business Days after receipt thereof by the Borrower or any of its Subsidiaries, notice of receipt of any notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) concerning any material investigation or possible material investigation or other material inquiry by such agency regarding financial or other operational results of the Borrower or any of its Subsidiaries, but not copies of any such notice or correspondence;

(g) promptly after the occurrence thereof or any material development therein, notice of any Environmental Liability of, or any noncompliance with any Environmental Law or Environmental Permit by, the Borrower or any of its Subsidiaries that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect; and

(h) promptly, such additional information regarding the business, financial, legal or corporate affairs of the Borrower or any of its Subsidiaries, or compliance with the terms of the Loan Documents, as the Administrative Agent or any Lender may from time to time reasonably request.

Documents required to be delivered pursuant to Section 6.01(a) or (b) or otherwise, to the extent any such documents are included in materials otherwise filed with the SEC, may be delivered electronically and, if so delivered, shall be deemed to have been delivered on the date on which (i) the Borrower posts such documents, or provides a link thereto, on the Borrower's principal publicly accessible website or (ii) such documents are posted on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (which may be a commercial or a third-party website or a website sponsored by the Administrative Agent); provided that the Borrower shall notify the Administrative Agent of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents.

Section 6.03. Notices. Promptly notify the Administrative Agent of:

(a) the occurrence of any Default;

(b) any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect;

(c) the occurrence of any ERISA Event;

(d) the occurrence of any Disposition or Casualty Event, or the incurrence or issuance of any Indebtedness or Equity Interests, in each case for which the Borrower is required to make a mandatory prepayment pursuant to Section 2.04(b); and

(e) the occurrence of any Internal Control Event.

Each notice pursuant to Section 6.03(a), (b), (c) or (e) shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto. Each notice pursuant to Section 6.03(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document in respect of which a Default exists.

Section 6.04. Nonpublic Information. Concurrently with the delivery of any document or notice required to be delivered pursuant to Section 6.01, 6.02 or 6.03, indicate in writing whether such document or notice contains Nonpublic Information. The Borrower and each Lender acknowledge that certain of the Lenders may be "public-side" Lenders (i.e., Lenders that do not wish to receive material non-public information with respect to the Borrower, its Subsidiaries or its or their securities) and, if documents or notices required to be delivered pursuant to Section 6.01, 6.02 or 6.03, or otherwise, are being distributed through IntraLinks/IntraAgency, SyndTrak or another relevant website or other information platform (the "***Platform***"), any document or notice that the Borrower has indicated contains Nonpublic Information shall not be posted on that portion of the Platform designated for such public-side Lenders. If the Borrower has not indicated whether a document or notice delivered pursuant to Section 6.01, 6.02 or 6.03 contains Nonpublic Information, the Administrative Agent reserves the right to post such document or notice solely on that portion of the Platform designated for Lenders who wish to receive Nonpublic Information with respect to the Borrower, its Subsidiaries and its and their securities.

Section 6.05. Payment of Obligations. Pay, discharge or otherwise satisfy as the same shall become due and payable (a) all material tax liabilities, assessments and governmental charges or levies upon it or its assets, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the Borrower or such Subsidiary, except to the extent the failure to pay or discharge the same could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, and (b) all lawful claims that, if unpaid, would by Law become a Lien upon its assets.

Section 6.06. Preservation of Existence, Etc.

(a) Other than as to Dormant Subsidiaries, preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization, except in a transaction permitted by Section 7.04 or 7.05 and except, other than with respect to the Borrower, to the extent the failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect;

(b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent the failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; and

(c) preserve or renew all of its registered IP Rights, except to the extent the failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 6.07. Maintenance of Properties. Except with respect to Dormant Subsidiaries and except where the failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (a) maintain, preserve and protect all of its properties and equipment that are necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted, and (b) make all necessary repairs thereto and renewals and replacements thereof in accordance with prudent industry practice.

Section 6.08. Maintenance of Insurance. Maintain, with financially sound and reputable insurance companies not Affiliates of the Borrower, insurance with respect to its properties in such amounts (after giving effect to any self-insurance (including with captive insurance companies) compatible with the following standards), with such deductibles and covering such risks as are customarily carried by companies engaged in the same or similar businesses and owning similar properties in localities where the Borrower or the applicable Subsidiary operates.

Section 6.09. Compliance with Laws. Comply with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except where such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or where the failure to comply therewith could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 6.10. Books and Records. Maintain proper books of record and account, in which full, true and correct entries shall be made of all material financial transactions and matters involving the assets and business of the Borrower or such Subsidiary, as the case may be, in a manner that permits the preparation of financial statements in accordance with GAAP.

Section 6.11. Inspection Rights. Permit representatives and independent contractors of the Administrative Agent and each Lender to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at reasonable times during normal business hours, in reasonable intervals and upon reasonable advance notice to the Borrower; provided, that, excluding any such visits and inspections during the continuation of an Event of Default, only the Administrative Agent on behalf of the Lenders may exercise rights under this Section 6.11 and the Administrative Agent shall not exercise such rights more often than twice during any calendar year and any one such time shall be at the Borrower's expense; provided further, that when an Event of Default exists the Administrative Agent or any Lender may do any of the foregoing at the expense of the Borrower at any time during normal business hours and upon reasonable advance notice to the Borrower. The Administrative Agent and the Lenders shall give the Borrower the opportunity to participate in any discussions with the Borrower's accountants.

Section 6.12. Use of Proceeds. Use the proceeds of the Loans solely to repay in full all amounts outstanding under the Existing Credit Agreement and to pay fees and expenses related to the Transactions and, with respect to any remaining proceeds, for general corporate purposes not in contravention of any Law or of any Loan Document; and use Letters of Credit solely to support obligations of the Borrower and its Subsidiaries incurred in the ordinary course of business.

Section 6.13. Information Regarding Collateral; Additional Subsidiaries. ii) Furnish to the Collateral Agent prompt written notice of any change in (i) any Loan Party's legal name, as reflected in its Organization Documents, (ii) any Loan Party's jurisdiction of organization or corporate structure and (iii) any Loan Party's identity, Federal Taxpayer Identification Number or organization number, if any, assigned by the jurisdiction of its organization, and not effect or permit any such change unless all filings have been made under the Uniform Commercial Code or otherwise that are required in order for the Collateral Agent to continue at all times following such change to have a valid, legal and perfected security interest in all the Collateral.

(b) If any material assets (including any Equity Interests and any real properties or leasehold interests that would constitute Mortgaged Properties) are acquired, or any deposit accounts or securities accounts described in the definition of the term Guarantee and Collateral Requirement are established, by the Borrower or any Subsidiary Loan Party (or held by any Person becoming a Subsidiary Loan Party) after the Closing Date (other than assets (but not Equity Interests or any such accounts) constituting Collateral under the Guarantee and Collateral Agreement that become subject to the Lien created by the Guarantee and Collateral Agreement upon acquisition thereof, but only if such Lien thereon shall be perfected), notify the Collateral Agent thereof and, if requested by the Collateral Agent, cause such assets or accounts to be subjected to a Lien securing the Obligations and take such actions as shall be necessary or reasonably requested by the Collateral Agent to grant and perfect such Liens, all at the expense of the Loan Parties.

(c) If any additional Subsidiary (other than a Dormant Subsidiary) is formed or acquired after the Closing Date or if any Subsidiary ceases to be a Dormant Subsidiary, notify, within 10 Business Days after such Subsidiary is formed or acquired or ceases to be a Dormant Subsidiary, as the case may be, the Collateral Agent thereof and, promptly thereafter, cause the Guarantee and Collateral Requirement to be satisfied with respect to such Subsidiary (if it is a Subsidiary Loan Party) and with respect to any Equity Interest in or Indebtedness of such Subsidiary owned by or on behalf of any Loan Party.

Section 6.14. Compliance with Environmental Laws. Except to the extent the failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, comply, and cause all lessees and other Persons operating or occupying its properties to comply, with all applicable Environmental Laws and Environmental Permits; obtain and renew all Environmental Permits necessary for its operations and properties; and conduct any investigation, study, sampling and testing, and undertake any cleanup, removal, remedial or other action necessary to remove and clean up all Hazardous Materials from any of its properties in accordance with the requirements of all applicable Environmental Laws; provided, however, that neither the Borrower nor any of its Subsidiaries shall be required to undertake any such cleanup, removal, remedial or other action (a) to the extent that its obligation to do so is being contested in good faith and by proper proceedings diligently pursued and appropriate reserves are being maintained in accordance with GAAP with respect to such circumstances or (b) where failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 6.15. Further Assurances. Promptly upon request by the Administrative Agent, or any Lender through the Administrative Agent, (a) correct any material defect or error that may be discovered in any Loan Document or in the execution, acknowledgment, filing or recordation thereof, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent or the Collateral Agent may reasonably require from time to time in order to cause the Guarantee and Collateral Requirement to be and remain satisfied and assure, convey, grant, assign, transfer, preserve, protect and confirm more effectively unto the Administrative Agent or the Collateral Agent, the rights granted or now or hereafter intended to be granted to such Persons under any Loan Document or under any other instrument executed in connection with any Loan Document to which the Borrower or any other Loan Party is or is to be a party.

Section 6.16. Interest Rate Hedging. No later than 90 days after the Closing Date, obtain and, at all times thereafter until the third anniversary of the Closing Date cause to be maintained, protection against fluctuations in interest rates pursuant to one or more Swap Contracts in form and substance reasonably satisfactory to the Administrative Agent, in order to ensure that not less than 50% of the aggregate principal amount of the total Indebtedness for borrowed money of the Borrower and its Subsidiaries then outstanding is either (i) subject to such Swap Contracts or (ii) Indebtedness that bears interest at a fixed rate.

Section 6.17. Ratings. Use commercially reasonable efforts to obtain as promptly as practicable after the Closing Date, and thereafter to maintain at all times, ratings issued by Moody's and S&P with respect to senior secured debt of the Borrower.

Section 6.18. Certain Post-Closing Collateral Obligations. As promptly as practicable, and in any event within 60 days, after the Closing Date, (a) cause the requirements set forth in clauses (c) (with respect to Foreign Subsidiaries), (e), (f) and (g) of the definition of the term Guarantee and Collateral Requirement to be satisfied and (b) deliver all mortgages, foreign pledge agreements, control agreements, lien searches, agreements of third parties and documents from public officials that would have been required to be delivered on the Closing Date but for the last sentence of Article IV, in each case except to the extent otherwise agreed to by the Collateral Agent pursuant to the last two sentences of the definition of the term Guarantee and Collateral Requirement.

ARTICLE VII

NEGATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan, any LC Disbursement or any interest or fees payable hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding (other than any Letter of Credit the obligations of the Borrower under which shall have been cash collateralized or supported by letters of credit of other banks naming the applicable LC Issuer as the beneficiary in a manner satisfactory to such LC Issuer), the Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly:

Section 7.01. Liens.

Create, incur, assume or suffer to exist any Lien upon any of its properties or assets, whether now owned or hereafter acquired, other than the following ("***Permitted Liens***"):

(a) Liens created under any Loan Document;

(b) Liens existing on the Closing Date and set forth on Schedule 7.01(b), and any renewals or extensions thereof; provided that (i) such Liens shall apply only to the assets to which they apply on the Closing Date and (ii) such Liens shall secure only (A) those obligations that they secure on the Closing Date and (B) refinancings, refundings, renewals and extensions of such secured obligations permitted hereunder so long as the aggregate principal amount of obligations secured under this Section 7.01(b) does not exceed at any time the sum of (x) the principal amount of the obligations secured by such Liens on the Closing Date and (y) the aggregate amount of reasonable premiums paid, and fees and expenses reasonably incurred, in connection with such refinancings, refundings, renewals and extensions;

(c) Liens for Taxes, fees, assessments or other governmental charges that are not overdue by more than 30 days or, if more than 30 days overdue, (i) that are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP or (ii) with respect to which in the aggregate the failure to make payment could not reasonably be expected to have a Material Adverse Effect;

(d) statutory Liens of landlords, warehousemen, mechanics, materialmen, repairmen or other like Liens arising in the ordinary course of business that secure obligations that are not overdue by more than 30 days or, if more than 30 days overdue, (i) that are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP or (iii) with respect to which in the aggregate the failure to make payment could not reasonably be expected to have a Material Adverse Effect;

(e) pledges and deposits made in the ordinary course of business (i) in connection with workers' compensation, unemployment insurance and other social security legislation, other than any Lien imposed by ERISA, or (ii) securing insurance premiums or reimbursement obligations under insurance policies, in each case payable to insurance carriers that provide insurance to the Borrower or any of its Subsidiaries;

(f) pledges and deposits made in the ordinary course of business to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety, stay, customs and appeal bonds, performance bonds, performance and completion guarantees and other obligations of a like nature (including those to secure health, safety and environmental obligations);

(g) easements, rights-of-way, restrictions, encroachments, protrusions and other similar encumbrances and minor title defects affecting real property that do not secure Indebtedness, that are incurred in the ordinary course of business and that do not materially and adversely affect the use of the property subject thereto for its intended purpose;

(h) Liens securing judgments for the payment of money that have not resulted in an Event of Default under Section 8.01(h);

(i) Liens securing Indebtedness permitted under Section 7.02(c); provided that (i) such Liens do not at any time encumber any assets other than the assets financed by such Indebtedness or, if applicable, subject to such Capitalized Lease and the proceeds and product thereof and accessions thereto and (ii) the Indebtedness secured thereby does not exceed the cost or fair market value, whichever is lower, of the assets being encumbered at the time such assets became so encumbered; provided further, however, that in the event purchase money obligations are owed to any Person with respect to financing of more than one purchase of equipment, Liens securing such purchase money obligations shall be permitted to extend to all equipment so financed by such Person;

(j) Liens securing Indebtedness or other obligations in an aggregate principal amount at any time outstanding not to exceed $15,000,000; provided that any such Liens that extend to or cover any Collateral shall not secure Indebtedness or other obligations in an aggregate principal amount at any time outstanding in excess of $10,000,000;

(k) Liens arising solely by virtue of any statutory or common law provision relating to banker's liens, rights of set-off or similar rights and remedies as to deposit or commodity trading or brokerage accounts or other funds maintained with a creditor depository institution, provided that such accounts and funds are not primarily intended by the Borrower or any Subsidiary to provide collateral to the depository institution or the commodity intermediary;

(l) Liens on property of any Subsidiary in favor of the Borrower or any Subsidiary Loan Party;

(m) Liens on property of any Foreign Subsidiary securing Indebtedness of such Foreign Subsidiary permitted under Section 7.02(e);

(n) (i) leases, licenses, subleases and sublicenses granted in the ordinary course of business and that do not (A) interfere in any material respect with the business of the Borrower or any of its material Subsidiaries or (B) secure any Indebtedness for borrowed money or (ii) the rights reserved or vested in any Person by the terms of any lease, license, franchise, grant or permit held by the Borrower or any of its Subsidiaries, or by Law to terminate any such lease, license, franchise, grant or permit or to require annual or periodic payments as a condition to the continuance thereof;

(o) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business;

(p) Liens consisting of (i) agreements to Dispose of any property in a Disposition permitted under Section 7.05 and (ii) earnest money deposits made by the Borrower or any of its Subsidiaries in connection with any letter of intent or purchase agreement entered into in connection with an Investment permitted under Section 7.03;

(q) any Lien existing on (i) any asset prior to the acquisition thereof by the Borrower or any Subsidiary or (ii) any asset of any Person that becomes a Subsidiary (or is merged into or consolidated with any Subsidiary) after the date hereof prior to the time such Person becomes a Subsidiary (or is so merged or consolidated); provided that (A) such Lien does not extend to or cover any other assets (other than the proceeds or products of the assets originally subject thereto and, in the case of Liens referred to in clause (ii), after-acquired assets subjected to a Lien pursuant to requirements existing at the time such Person became a Subsidiary (or was so merged or consolidated), other than any such after-acquired assets that would not have been subject to such Lien but for such Person becoming a Subsidiary (or so being merged or consolidated)), (ii) such Lien was not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary (or so being merged or consolidated), as the case may be, and (iii) the Indebtedness secured thereby is permitted under Section 7.02(i);

(r) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by the Borrower or any of its Subsidiaries in the ordinary course of business;

(s) Liens deemed to exist in connection with Investments in repurchase agreements permitted under Section 7.03;

(t) Liens on assets constituting ABL Collateral securing Indebtedness and other obligations under the Permitted ABL Facility; provided that the Borrower, the Collateral Agent and the institution serving as collateral agent for the Permitted ABL Facility shall have entered into the ABL Intercreditor Agreement;

(u) Liens that are contractual rights of set-off under agreements entered into with customers of the Borrower or any Subsidiary in the ordinary course of business; and

(v) Liens securing IRB Debt permitted by Section 7.02(n), provided that Liens extend to and cover only the capital assets and improvements financed with such IRB Debt.

Section 7.02. Indebtedness. Create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness constituting (i) Investments permitted under Section 7.03(c), provided that (A) any such Indebtedness that is owed to a Loan Party shall be evidenced by a promissory note that shall have been pledged in accordance with the Guarantee and Collateral Requirement, (B) any such Indebtedness of a Loan Party to a Subsidiary that is not a Subsidiary Loan Party shall be subordinated to the Obligations on terms no less favorable to the Lenders than the terms set forth on Exhibit F, as reasonably determined by the Administrative Agent, and (C) no Domestic Subsidiary of the Borrower shall Guarantee obligations of the Borrower under the Permitted ABL Facility unless such Domestic Subsidiary shall have Guaranteed the Obligations and (ii) Guarantees by the Borrower of (A) Indebtedness of any Foreign Subsidiary permitted under Section 7.02(e) or (B) Indebtedness of any Foreign Subsidiary under a Qualified Foreign Credit Facility;

(b) Indebtedness under the Loan Documents;

(c) Indebtedness in respect of Capitalized Leases, Synthetic Lease Obligations and purchase money obligations to finance the purchase, repair or improvement of fixed or capital assets; provided, however, that the aggregate amount of such Indebtedness at any time outstanding shall not exceed $15,000,000;

(d) Indebtedness (other than Indebtedness of Foreign Subsidiaries) in an aggregate principal amount at any time outstanding not to exceed $25,000,000;

(e) Indebtedness of Foreign Subsidiaries to Persons other than the Borrower and its Subsidiaries in an aggregate principal amount at any time outstanding not to exceed $25,000,000, it being understood that any such Indebtedness may be incurred under a Qualified Foreign Credit Facility, subject to the limitation set forth in the definition of such term;

(f) Guarantees resulting from endorsement of negotiable instruments in the ordinary course of business;

(g) obligations in respect of surety, stay, customs and appeal bonds, performance bonds and performance and completion guarantees required in the ordinary course of business or in connection with the enforcement of rights or claims of the Borrower or its Subsidiaries or in connection with judgments that have not resulted in an Event of Default under Section 8.01(h);

(h) Indebtedness outstanding on the date hereof and set forth on Schedule 7.02(h) and any refinancings, refundings, renewals or extensions thereof, provided that (i) the principal amount of such Indebtedness is not increased at the time of such refinancing, refunding, renewal or extension except by an amount equal to a reasonable premium paid, and fees and expenses reasonably incurred, in connection with such refinancing, refunding, renewal or extension and by an amount equal to any existing commitments unutilized thereunder and (ii) the direct or any contingent obligor with respect thereto is not changed as a result of or in connection with such refinancing, refunding, renewal or extension; provided further that (A) the final maturity and the weighted average life to maturity thereof is no shorter than that of the Indebtedness being refinanced, refunded, renewed or extended and (B) the terms relating to collateral (if any) and subordination (if any), and other material terms (other than interest rates) taken as a whole, of any such refinancing, refunding, renewing or extending Indebtedness, and of any agreement entered into and of any instrument issued in connection therewith, are no less favorable in any material respect to the Lenders than the terms of any agreement or instrument governing the Indebtedness being refinanced, refunded, renewed or extended;

(i) Indebtedness of any Person that becomes a Subsidiary (or is merged into or consolidated with any Subsidiary) after the date hereof as a result of a Permitted Acquisition or is assumed by the Borrower or any of its Subsidiaries in connection with any Permitted Acquisition (provided that (i) such Indebtedness was not incurred in contemplation of such Permitted Acquisition and (ii) the aggregate principal amount of Indebtedness permitted by this Section 7.02(i) shall not exceed $20,000,000 at any time outstanding), and any refinancings, refunding, renewal or extension thereof that would have been permitted under Section 7.02(h) had such Indebtedness been permitted under such Section;

(j) Indebtedness in respect of netting services, overdraft protections and similar arrangements in each case in connection with cash management and deposit accounts;

(k) Indebtedness consisting of (i) the financing of insurance premiums in the ordinary course of business or (ii) take or pay obligations contained in supply arrangements not to exceed $100,000,000 in the aggregate;

(l) Indebtedness incurred by the Borrower or any of its Subsidiaries constituting reimbursement obligations with respect to letters of credit issued in the ordinary course of business in respect of workers compensation claims, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance, other Indebtedness with respect to reimbursement-type obligations regarding workers compensation claims and other Indebtedness in respect of bankers' acceptance, letter of credit, warehouse receipts or similar facilities entered into in the ordinary course of business; provided that upon the drawing of such letters of credit or the incurrence of such Indebtedness, such obligations are reimbursed within five Business Days following such drawing or incurrence;

(m) Indebtedness under an asset based revolving credit facility in an aggregate principal amount at any time outstanding not to exceed the lesser of (i) the Facilities Reduction Amount at such time and (ii) $300,000,000 (such facility, the "***Permitted ABL Facility***");

(n) IRB Debt in an aggregate principal amount at any time outstanding not to exceed $20,000,000; and

(o) all premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in clauses (a) through (n) above.

Section 7.03. Investments. Make or hold any Investments, except:

(a) Investments in Cash Equivalents;

(b) advances to officers, directors and employees of the Borrower and its Subsidiaries (i) for travel, entertainment, relocation and analogous ordinary business purposes, in an aggregate amount not to exceed $5,000,000 at any time outstanding, and (ii) in connection with such Person's purchase of Equity Interests of the Borrower, in an aggregate amount not to exceed $5,000,000 at any time outstanding, in each case determined without regard to any write-downs or write-offs of such advances;

(c) Investments by the Borrower in any Subsidiary and by any Subsidiary in any other Subsidiary or in the Borrower (except Investments in Equity Interests of the Borrower), provided that (i) the aggregate amount of Investments made since the Closing Date by the Loan Parties in Subsidiaries that are not Subsidiary Loan Parties shall not exceed the sum of (A) $50,000,000, (B) $25,000,000 (provided that Investments made in reliance on this clause (B) shall be used by the recipient thereof, promptly upon the receipt thereof, to repay Indebtedness of such recipient or its Subsidiaries (subject to, in the case of any such Indebtedness that is a revolving extension of credit, a corresponding permanent reduction in related commitments)) and (C) the aggregate amount of dividends paid, or loans or advances repaid, by the Foreign Subsidiaries to, and Investments made by the Foreign Subsidiaries in, the Loan Parties since the Closing Date and (ii) any such Investments by a Loan Party that constitute loans or advances to a Subsidiary shall be evidenced by a promissory note that shall have been pledged in accordance with the Guarantee and Collateral Requirement;

(d) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors and other credits to suppliers made in the ordinary course of business;

(e) Guarantees permitted by Section 7.02;

(f) Investments existing on the date hereof and set forth on Schedule 7.03(f);

(g) Investments by the Borrower in Swap Contracts;

(h) the purchase or other acquisition of all of the Equity Interests in, or all or substantially all of the property and assets constituting a line of business, a business unit or division of, any Person that, upon the consummation thereof, will be owned by the Borrower or a Wholly-Owned Subsidiary (including as a result of a merger or consolidation between such Person and any Subsidiary); provided that no such purchase or other acquisition may be made prior to September 30, 2007 and with respect to each such purchase or other acquisition made thereafter:

(i) all actions required to be taken under Section 6.13 with respect to any Subsidiary that is the surviving or continuing Person in any such merger or consolidation, or any such purchased or otherwise acquired assets, shall have been taken;

(ii) the lines of business of the Person or assets to be so purchased or otherwise acquired shall be reasonably related or similar to one or more lines of business that are the principal lines of businesses of the Borrower and its Subsidiaries;

(iii) (A) the total cash and noncash consideration (excluding the fair market value of all Equity Interests of the Borrower (other than any such Equity Interests that would give rise to Indebtedness) issued or transferred to the sellers thereof, but including all indemnities, earnouts and other contingent payment obligations to, and the aggregate amounts paid or to be paid under noncompete, consulting and other affiliated agreements with, the sellers thereof, all write-downs of property and assets and reserves for liabilities with respect thereto and all assumptions of debt, liabilities and other obligations in connection therewith) paid by or on behalf of the Borrower and its Subsidiaries for any such purchase or other acquisition, when aggregated with the total cash and noncash consideration (determined as set forth above) paid by or on behalf of the Borrower and its Subsidiaries for all other purchases and other acquisitions made by the Borrower and its Subsidiaries pursuant to this Section 7.03(h), shall not exceed $25,000,000 in any fiscal year of the Borrower or (B) such Investment is made solely with the Equity Interests of the Borrower (other than any such Equity Interests that would give rise to Indebtedness);

(iv) immediately before and immediately after giving effect to any such purchase or other acquisition, (A) no Event of Default shall have occurred and be continuing and (B) the Borrower and its Subsidiaries shall be in pro forma compliance with the covenant set forth in Section 7.11, such compliance to be determined on the basis of the financial information most recently delivered to the Administrative Agent pursuant to Section 6.01(a) or (b) as though such purchase or other acquisition had been consummated as of the first day of the fiscal period covered thereby; and

(v) the Borrower shall have delivered to the Administrative Agent, at least five Business Days prior to the date on which any such purchase or other acquisition is to be consummated, a certificate of a Responsible Officer, in form and substance reasonably satisfactory to the Administrative Agent, certifying that all of the requirements set forth in this Section 7.03(h) have been satisfied or will be satisfied on or prior to the consummation of such purchase or other acquisition;

(i) so long as no Event of Default shall have occurred and be continuing or would result therefrom, other Investments not exceeding $25,000,000 in the aggregate since the Closing Date (with all such Investments valued at the time of Investment at the cash amount thereof, if in cash, the fair market value thereof as determined by the board of directors of the Borrower, if in property, and at the maximum amount thereof if in Guarantees);

(j) bank deposits made in the ordinary course of business;

(k) promissory notes and other non-cash consideration received in connection with Dispositions permitted by Section 7.05;

(l) Investments in the ordinary course of business consisting of (i) endorsements for collection or deposit and (ii) customary trade arrangements with customers consistent with past practices; and

(m) Investments (including debt obligations and Equity Interests) received in connection with the bankruptcy or reorganization of any Person and in settlement of obligations of, or other disputes with, such Persons arising in the ordinary course of business and upon the foreclosure with respect to any secured Investment or other transfer of title with respect to any secured Investment.

Section 7.04. Fundamental Changes. Merge or consolidate with or into another Person, except that, so long as no Event of Default shall have occurred and be continuing or would result therefrom, (a) any Subsidiary may merge or consolidate with (i) the Borrower, provided that the Borrower shall be the continuing or surviving Person, other than in connection with a merger the purpose of which is to reincorporate the Borrower in another state of the United States so long as the surviving Person expressly assumes all of the obligations of the Borrower under the Loan Documents in a manner reasonably satisfactory to the Administrative Agent, or (ii) any other Subsidiary; provided that (A) in a merger or consolidation of any Wholly-Owned Subsidiary with another Subsidiary, the continuing or surviving Person shall be a Wholly-Owned Subsidiary and (B) in a merger or consolidation of any Subsidiary Loan Party with another Subsidiary, the continuing or surviving Person shall be a Subsidiary Loan Party; and (b) in connection with any Permitted Acquisition, a Subsidiary may merge or consolidate with any other Person, provided that the continuing or surviving Person shall be a Wholly-Owned Subsidiary.

Section 7.05. Dispositions. Make any Disposition, except:

(a) Dispositions of no longer useful or used, surplus, obsolete or worn out assets in the ordinary course of business;

(b) Dispositions of inventory in the ordinary course of business;

(c) Dispositions of equipment (i) in a transaction where such equipment is exchanged for credit against the purchase price of similar replacement equipment or (ii) the proceeds of such Disposition are reasonably promptly applied to the purchase price of such replacement equipment;

(d) Dispositions of cash or Cash Equivalents;

(e) Dispositions of property by any Subsidiary to the Borrower or by the Borrower or any Subsidiary to any other Subsidiary; provided that (i) if the transferor of such property is a Loan Party, the transferee thereof shall be a Loan Party and (ii) to the extent such transaction constitutes an Investment, such transaction is permitted under Section 7.03;

(f) Dispositions permitted under Section 7.06;

(g) Disposition of (i) the Home and Garden division of the Borrower, in whole or in part, (ii) assets constituting one or more other divisions or lines of business of the Borrower and its Subsidiaries and (iii) any manufacturing plants or facilities, in each case, made as part of a debt reduction program of the Borrower; provided that at least 75% of the consideration received by the Borrower and its Subsidiaries in any such Disposition shall be in the form of cash and Cash Equivalents;

(h) Dispositions not otherwise permitted under this Section 7.05; provided that (i) at the time of such Disposition, no Event of Default shall have occurred and be continuing or would result therefrom, (ii) the aggregate book value of all property Disposed of in reliance on this Section 7.03(h) shall not exceed $35,000,000 in any fiscal year of the Borrower or $100,000,000 since the Closing Date and (iii) at least 75% of the consideration received by the Borrower and its Subsidiaries in any such Disposition shall be in the form of cash and Cash Equivalents;

(i) Dispositions of property pursuant to sale and leaseback transactions; provided that (i) the aggregate fair market value of all property Disposed of in reliance on this Section 7.03(i) shall not exceed $15,000,000 (which amount may, with prior approval by the Administrative Agent, be increased to $25,000,000) since the Closing Date and (ii) at least 75% of the consideration received by the Borrower and its Subsidiaries in any such Disposition shall be in the form of cash and Cash Equivalents;

(j) (i) sales or discounts of accounts receivable without recourse arising in the ordinary course of business in connection with the compromise or collection thereof (but not as part of any securitization or factoring arrangement) and (ii) sales or transfers of accounts receivable and related rights by any Foreign Subsidiary pursuant to customary receivables financing facilities or factoring arrangements;

(k) transfers of property that is the subject of a Casualty Event upon receipt of insurance or other proceeds arising from such Casualty Event;

(l) Dispositions of Equity Interests in Dormant Subsidiaries;

(m) Dispositions of Investments in joint ventures to the extent required by, or made pursuant to, any buy/sell arrangement or any similar binding arrangement between joint venture parties, in each case, that is in effect on the Closing Date;

(n) Dispositions of accounts receivable pursuant to retailer-mandated factoring programs in an aggregate amount not to exceed $15,000,000 since the Closing Date;

(o) Dispositions set forth on Schedule 7.05; and

(p) Dispositions in the ordinary course of business consisting of abandonment of IP Rights that, in the good faith determination of the Borrower or any Subsidiary, are uneconomical, negligible, obsolete or otherwise not material in the conduct of its business;

provided, however, that any Disposition pursuant to Sections 7.05(a), (b), (c), (g), (h), (i), (n) and (o) shall be made at least for the fair market value of the assets Disposed.

Section 7.06. Restricted Payments. Declare or make, directly or indirectly, any Restricted Payment, except that:

(a) each Subsidiary may make Restricted Payments to the Borrower or any other Subsidiary or, in the case of any Subsidiary that is not a Wholly-Owned Subsidiary, to any other Person that owns a direct Equity Interest in such Subsidiary, ratably in accordance with such Person's ownership of the type of Equity Interest in respect of which such Restricted Payment is being made;

(b) the Borrower and each of its Subsidiaries may declare and make dividend payments or other distributions payable solely in the common stock or other common Equity Interests of such Person;

(c) the Borrower and each of its Subsidiaries may purchase, redeem or otherwise acquire its common Equity Interests with the proceeds received from the substantially concurrent issuance of new common Equity Interests of such Person (other than any such issuance to the Borrower or a Subsidiary);

(d) so long as no Event of Default shall have occurred and be continuing or would result therefrom, the Borrower and its Subsidiaries may repurchase, retire or otherwise acquire for value common stock or options with respect to common stock held by directors, officers, consultants or employees of the Borrower or any of its Subsidiaries (or any persons that formerly held any such position), or by the estate, family member, spouse or former spouse of any of the foregoing Persons, in each case, (i) pursuant to the exercise by any holder thereof of a right under the equity incentive plans of the Borrower and its Subsidiaries to require such repurchase in connection with any Taxes payable by such holder as a result of vesting, or lapse of restrictions on transfer, of such common stock or options or (ii) in connection with the death or disability of any such director, officer, consultant or employee (or any person that formerly held any such position); provided that such Restricted Payments shall not exceed $5,000,000 in the aggregate in any calendar year and the price paid for any such common stock or option shall not exceed the market value of such common stock or option at the time paid; and

(e) so long as no Event of Default shall have occurred and be continuing or would result therefrom, the Borrower may make cash payments in lieu of issuing fractional shares in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Equity Interests of the Borrower or its Subsidiaries, provided that any such cash payment shall not be for the purpose of evading the limitations set forth in this Section 7.06 (as determined in good faith by the board of directors of the Borrower (or any authorized committee thereof)).

Section 7.07. Change in Nature of Business. Engage in any material line of business substantially different from the lines of business conducted by the Borrower and its Subsidiaries on the Closing Date or any business reasonably related or ancillary thereto.

Section 7.08. Transactions with Affiliates. Enter into any transaction of any kind with any Affiliate of the Borrower, whether or not in the ordinary course of business, other than (a) on terms substantially as favorable to the Borrower or such Subsidiary as would be obtainable by the Borrower or such Subsidiary at the time in a comparable arm's length transaction with a Person other than an Affiliate, (b) transactions among the Borrower and its Subsidiaries, (c) dividends, redemptions, repurchases and other transactions permitted under Section 7.06, (d) customary fees payable to any directors of the Borrower and its Subsidiaries and reimbursement of reasonable out-of-pocket costs of the directors of the Borrower and its Subsidiaries, (e) employment and severance arrangements between the Borrower or its Subsidiaries and their respective officers and employees entered into in the ordinary course of business, (f) the payment of customary fees and indemnities to directors, officers and employees of the Borrower and its Subsidiaries in the ordinary course of business and (g) transactions pursuant to any agreement in effect on the Closing Date and set forth on Schedule 7.08, as any such agreement may be amended, supplemented or otherwise modified, provided that the terms thereof following any such amendment, supplement or modifications are not, individually or in the aggregate, more adverse in any material respect to the Loan Parties or the Lenders than the terms thereof in effect on the Closing Date.

Section 7.09. Burdensome Agreements. Enter into, incur or permit to exist any Contractual Obligation that prohibits, restricts or imposes any condition upon (a) the ability of the Borrower or any Subsidiary to create, incur or permit to exist any Lien upon any of its property or assets or (b) the ability of any Subsidiary to pay dividends or other distributions with respect to any shares of its capital stock or to make or repay loans or advances to the Borrower or any other Subsidiary or to Guarantee Indebtedness of the Borrower or any other Subsidiary; provided that (i) the foregoing shall not apply to restrictions and conditions imposed by Law or by any Loan Document, (ii) the foregoing shall not apply to restrictions and conditions existing on the date hereof identified on Schedule 7.09 (but shall apply to any extension or renewal of, or any amendment or modification expanding the scope of, any such restriction or condition), (iii) the foregoing shall not apply to customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary pending such sale, provided such restrictions and conditions apply only to the Subsidiary that is to be sold and such sale is permitted hereunder, (iv) clause (a) of the foregoing shall not apply to restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this Agreement if such restrictions or conditions apply only to the property or assets securing such Indebtedness and (v) clause (a) of the foregoing shall not apply to customary provisions in leases and other contracts restricting the assignment thereof.

Section 7.10. Use of Proceeds. Use the proceeds of any Credit Extension to purchase or carry margin stock (within the meaning of Regulation U of the FRB), to extend credit to others for the purpose of purchasing or carrying margin stock or to refund Indebtedness originally incurred for such purpose, in each case, in violation of Regulation T or U of the FRB.

Section 7.11. Senior Secured Leverage Ratio. Permit the Senior Secured Leverage Ratio at any time during any period set forth below to be greater than the ratio set forth below opposite such period:

Period	Maximum Senior Secured Leverage Ratio
April 1, 2007 to September 30, 2007	7.50 to 1.00
October 1, 2007 to September 30, 2008	6.25 to 1.00
October 1, 2008 to September 30, 2009	5.75 to 1.00
October 1, 2009 and thereafter	5.00 to 1.00

Section 7.12. Capital Expenditures. Make any Capital Expenditures, other than (a) Permitted Acquisitions and (b) other Capital Expenditures made in the ordinary course of business that do not exceed (i) for the fiscal year ending September 30, 2007, $50,000,000 in the aggregate, (ii) for the fiscal year ending September 30, 2008, $45,000,000 in the aggregate, (iii) for the fiscal year ending September 30, 2009, $45,000,000 in the aggregate and (iv) for the fiscal year ending September 30, 2010 and for any fiscal year thereafter, $50,000,000 in the aggregate for any such fiscal year. The amount of any Capital Expenditures permitted to be made pursuant to clause (b) above in any fiscal year may, to the extent not expended in such fiscal year, be carried over for expenditure in the next two fiscal years, provided that (A) such Capital Expenditures made in any fiscal year shall be deemed to use, first, the amount permitted for such fiscal year and, second, the amount carried over from any prior year pursuant to this sentence and (B) at the time of making of any Capital Expenditure made in reliance on this sentence, no Event of Default shall have occurred or be continuing.

Section 7.13. Amendment of Certain Documents. a) Amend, supplement or otherwise modify any of its Organization Documents, except to the extent any of the foregoing could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) Amend, supplement or otherwise modify any Indenture or any other agreement, instrument or document governing any Material Indebtedness, except to the extent any of the foregoing is not adverse to the interests of the Lenders under the Loan Documents in any material respect and except in connection with any refinancing, refunding, renewal or extension of any Material Indebtedness permitted under Section 7.02(h).

Section 7.14. Accounting Changes. Make any change in (i) accounting policies or reporting practices, except as required or permitted by GAAP, or (ii) its fiscal year, except with the prior written approval of the Administrative Agent.

Section 7.15. Prepayments, Etc. of Indebtedness. Pay or make, or agree to pay or make, directly or indirectly, any payment or other distribution (whether in cash, securities or other property) of or in respect of principal of or interest on any subordinated Indebtedness (including the Subordinated Notes), or any payment or other distribution (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any subordinated Indebtedness, except:

(a) regularly scheduled or other mandatory interest and principal payments as and when due in respect of any such Indebtedness, other than any payments prohibited by the subordination provisions thereof;

(b) refinancings of such Indebtedness to the extent permitted under Section 7.02; and

(c) prepayment of Indebtedness of any Loan Party owed to any other Loan Party.

Section 7.16. Speculative Transactions. Enter into any Swap Contract, other than Swap Contracts entered into in the ordinary course of business to hedge or mitigate risks to which the Borrower or any Subsidiary is exposed in the conduct of its business or the management of its liabilities.

Section 7.17. Senior Debt Status. Designate any Indebtedness (other than the Indebtedness under the Loan Documents or the Permitted ABL Facility) of the Borrower or any of its Subsidiaries as “Designated Senior Debt” under and as defined in any of the Indentures; or permit the aggregate LC Exposure at any time to exceed the aggregate amount of Indebtedness that could be incurred by the Borrower at such time under the covenants of the Indentures limiting Indebtedness (without reliance on any provision permitting the incurrence of Indebtedness based upon the satisfaction of any interest coverage or other financial ratio test).

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.01. Events of Default. Any of the following shall constitute an "***Event of Default***":

(a) Non-Payment. The Borrower or any other Loan Party fails (i) to pay when due any amount of principal of any Loan or any reimbursement obligation in respect of any LC Disbursement, (ii) to pay within three days after the same becomes due, any interest on any Loan or on any LC Disbursement or any fee due hereunder or (iii) to pay within five days after the same becomes due any other amount payable hereunder or under any other Loan Document;

(b) Specific Covenants. The Borrower (i) fails to perform or observe any covenant or agreement contained in Section 6.03(a), 6.06(a) (with respect to maintenance of existence of the Borrower to the extent required thereunder) or 6.11 or in Article VII or (ii) fails to perform or observe any covenant or agreement contained in Section 6.01(a) or (b) and such failure continues for 15 days;

(c) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in Section 8.01(a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for 30 days after the date on which such Loan Party knew or should have known of such failure;

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Borrower or any other Loan Party herein, in any other Loan Document, or in any document required to be delivered in connection herewith or therewith, shall be incorrect or misleading in any material respect when made or deemed made;

(e) Cross-Default. (i) Any Loan Party (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) in respect of any Material Indebtedness (other than Indebtedness hereunder) and such failure shall continue after the applicable grace period or (B) fails to observe or perform any other agreement or condition relating to any Material Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which failure or such other event is to cause, or to permit the holder or holders of Material Indebtedness to cause (after the applicable grace period, with the giving of notice if required), such Material Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Material Indebtedness to be made, prior to its stated maturity; or (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which the Borrower or any Subsidiary is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as so defined) under such Swap Contract as to which the Borrower or any Subsidiary is an Affected Party (as so defined) and, in either event, the Swap Termination Value owed by the Loan Party or such Subsidiary as a result thereof is greater than the Threshold Amount;

(f) Insolvency Proceedings, Etc. Any Loan Party or any of its Subsidiaries (other than any Dormant Subsidiary) institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for 60 days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for 60 days, or an order for relief is entered in any such proceeding;

(g) Inability to Pay Debts; Attachment. (i) Any Loan Party or any of its Subsidiaries (other than any Dormant Subsidiary) becomes unable or admits in writing its inability or fails generally to pay its debts as they become due or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Person and is not released, vacated or fully bonded within 30 days after its issue or levy;

(h) Judgments. One or more judgments or orders for the payment of money in an aggregate amount in excess of the Threshold Amount (to the extent not covered by third-party insurance as to which the insurer has been notified of the potential claim and does not dispute coverage) is rendered against any Loan Party or any of its Subsidiaries and the same shall remain undischarged for a period of 45 consecutive days during which execution shall not be effectively stayed;

(i) ERISA. (i) An ERISA Event occurs with respect to a Foreign Plan, Pension Plan or Multiemployer Plan that has resulted or could reasonably be expected to result in liability of the Borrower under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC, or similar liabilities of any Loan Party under a Foreign Plan, in each case where such liability could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or (ii) the Borrower or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan, or a similar event occurs with respect to any Foreign Plan, in each case where such failure could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect;

(j) Invalidity of Loan Documents. Any material provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder, including as a result of a transaction permitted under Section 7.04 or Section 7.05, or satisfaction in full of all the Obligations, ceases to be in full force and effect; or any Loan Party or any other Person contests in any manner the validity or enforceability of any provision of any Loan Document; or any Loan Party denies that it has any or further liability or obligation under any provision of any Loan Document, or purports to revoke, terminate or rescind any provision of any Loan Document;

(k) Change of Control. There occurs any Change of Control;

(l) Senior Debt Status. The Obligations shall cease to be "Senior Debt" and "Designated Senior Debt" for purposes of any of the Indentures, or any Loan Party shall so assert in writing; or

(m) Collateral Document. Any Collateral Document after delivery thereof pursuant to Section 4.01 or 6.13 shall for any reason (other than pursuant to the terms thereof, including as a result of a transaction permitted under Section 7.05) cease to create a valid and perfected Lien on and security interest in the Collateral purported to be covered thereby, or any Loan Party shall so assert in writing.

Section 8.02. Remedies Upon Event of Default. If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:

(a) declare the Commitment of each Lender to be terminated, whereupon such Commitments shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;

(c) require that the Borrower cash collateralize the LC Exposure in accordance with Section 2.03(l); and

(d) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents;

provided, however, that upon the occurrence any Event of Default with respect to the Borrower described in Section 8.01(f), the Commitments shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrower to cash collateralize the LC Exposure as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

ARTICLE IX

ADMINISTRATIVE AGENT

Section 9.01. Appointment of Agents. GSCP is hereby appointed as the Syndication Agent hereunder, and each Lender hereby authorizes GSCP to act as the Syndication Agent in accordance with the terms hereof and the other Loan Documents. GSCP is hereby appointed as the Administrative Agent and as the Collateral Agent hereunder and under the other Loan Documents, and each Lender hereby authorizes GSCP to act as the Administrative Agent and the Collateral Agent in accordance with the terms hereof and the other Loan Documents. Wachovia is hereby appointed as the Deposit Agent hereunder, and each Lender hereby authorizes Wachovia to act as the Deposit Agent in accordance with the terms hereof and of the other Loan Documents. Each Agent hereby agrees to act in its capacity as such upon the express conditions contained herein and the other Loan Documents, as applicable. The provisions of this Article IX are solely for the benefit of the Agents and the Lenders (and, in the case of Section 9.09, the Arrangers), and no Loan Party shall have any rights as a third party beneficiary of any of the provisions thereof. In performing its functions and duties hereunder, each Agent shall act solely as an agent of Lenders and does not assume and shall not be deemed to have assumed any obligation towards or relationship of agency or trust with or for the Borrower or any of its Subsidiaries. The Syndication Agent, without consent of or notice to any party hereto, may assign any and all of its rights or obligations hereunder to any of its Affiliates. As of the Closing Date, GSCP, in its capacity as the Syndication Agent, shall have no obligations, but shall be entitled to all benefits of this Article IX.

Section 9.02. Powers and Duties. Each Lender irrevocably authorizes each Agent to take such action on such Lender's behalf and to exercise such powers, rights and remedies hereunder and under the other Loan Documents as are specifically delegated or granted to such Agent by the terms hereof and thereof, together with such powers, rights and remedies as are reasonably incidental thereto. Each Agent shall have only those duties and responsibilities as are expressly specified herein and in the other Loan Documents. Each Agent may exercise such powers, rights and remedies and perform such duties by or through its agents or employees. No Agent shall have, by reason hereof or any of the other Loan Documents, a fiduciary relationship in respect of any Lender; and nothing herein or in any of the other Loan Documents, expressed or implied, is intended to or shall be so construed as to impose upon any Agent any obligations in respect hereof or any of the other Loan Documents except as expressly set forth herein or therein.

Section 9.03. General Immunity.

(a) No Responsibility for Certain Matters. No Agent shall be responsible to any Lender for the execution, effectiveness, genuineness, validity, enforceability, collectability or sufficiency hereof or of any other Loan Document or for any representations, warranties, recitals or statements made herein or therein or made in any written or oral statements or in any financial or other statements, instruments, reports or certificates or any other documents furnished or made by any Agent to the Lenders or by or on behalf of any Loan Party or any Lender to any Agent or any Lender in connection with the Loan Documents and the transactions contemplated thereby or for the financial condition or business affairs of any Loan Party or any other Person liable for the payment of any Obligations, nor shall any Agent be required to ascertain or inquire as to the performance or observance of any of the terms, conditions, provisions, covenants or agreements contained in any of the Loan Documents or as to the use of the proceeds of the Loans or as to the existence or possible existence of any Event of Default or Default or to make any disclosures with respect to the foregoing. Anything contained herein to the contrary notwithstanding, the Administrative Agent shall not have any liability arising from confirmations of the amount of outstanding Loans or the LC Exposure or the component amounts thereof.

(b) Exculpatory Provisions. No Agent or any of its officers, partners, directors, employees or agents shall be liable to Lenders for any action taken or omitted by any Agent under or in connection with any of the Loan Documents, except to the extent caused by such Agent's gross negligence or willful misconduct. Each Agent shall be entitled to refrain from any act or the taking of any action (including the failure to take an action) in connection herewith or any of the other Loan Documents or from the exercise of any power, discretion or authority vested in it hereunder or thereunder unless and until such Agent shall have received instructions in respect thereof from the Required Lenders (or such other Lenders as may be required to give such instructions under Section 10.01) and, upon receipt of such instructions from the Required Lenders (or such other Lenders, as the case may be), such Agent shall be entitled to act or (where so instructed) refrain from acting, or to exercise such power, discretion or authority, in accordance with such instructions. Without prejudice to the generality of the foregoing, (i) each Agent shall be entitled to rely, and shall be fully protected in relying, upon any communication, instrument or document believed by it to be genuine and correct and to have been signed or sent by the proper Person or Persons and shall be entitled to rely and shall be protected in relying on opinions and judgments of attorneys (who may be attorneys for the Borrower and its Subsidiaries), accountants, experts and other professional advisors selected by it; and (ii) no Lender shall have any right of action whatsoever against any Agent as a result of such Agent acting or (where so instructed) refraining from acting hereunder or any of the other Loan Documents in accordance with the instructions of the Required Lenders (or such other Lenders as may be required to give such instructions under Section 10.01).

(c) Delegation of Duties. Each Agent may perform any and all of its duties and exercise its rights and powers under this Agreement or under any other Loan Document by or through any one or more sub-agents appointed by such Agent. Each Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through its Affiliates. The exculpatory, indemnification and other provisions of this Section 9.03 and of Section 9.06 shall apply to the respective Affiliates of the Agents and shall apply to their respective activities in connection with the syndication of the Facilities as well as activities as an Agent. All of the rights, benefits, and privileges (including the exculpatory and indemnification provisions) of this Section 9.03 and of Section 9.06 shall apply to any such sub-agent and to the Affiliates of any such sub-agent, and shall apply to their respective activities as sub-agent as if such sub-agent and Affiliates were named herein. Notwithstanding anything herein to the contrary, with respect to each sub-agent appointed by any Agent, (i) such sub-agent shall be a third party beneficiary under this Agreement with respect to all such rights, benefits and privileges (including exculpatory rights and rights to indemnification) and shall have all of the rights and benefits of a third party beneficiary, including an independent right of action to enforce such rights, benefits and privileges (including exculpatory rights and rights to indemnification) directly, without the consent or joinder of any other Person, against any or all of the Loan Parties and the Lenders, (ii) such rights, benefits and privileges (including exculpatory rights and rights to indemnification) shall not be modified or amended without the consent of such sub-agent, and (iii) such sub-agent shall only have obligations to the Agent that has appointed such sub-agent, and not to any Loan Party, any Lender or any other Person, and no Loan Party, Lender or any other Person shall have any rights, directly or indirectly, as a third party beneficiary or otherwise, against such sub-agent.

Section 9.04. Agents Entitled to Act as Lender. The agency hereby created shall in no way impair or affect any of the rights and powers of, or impose any duties or obligations upon, any Agent in its individual capacity as a Lender hereunder. With respect to its participation in the Loans and the Letters of Credit, each Agent shall have the same rights and powers hereunder as any other Lender and may exercise the same as if it were not performing the duties and functions delegated to it hereunder, and the term “Lender” shall, unless the context clearly otherwise indicates, include each Agent in its individual capacity. Any Agent and its Affiliates may accept deposits from, lend money to, own securities of, and generally engage in any kind of banking, trust, financial advisory or other business with the Borrower or any of its Affiliates as if it were not performing the duties specified herein, and may accept fees and other consideration from the Borrower for services in connection herewith and otherwise without having to account for the same to the Lenders.

Section 9.05. Lenders' Representations, Warranties and Acknowledgments.

(a) Each Lender represents and warrants that it has made its own independent investigation of the financial condition and affairs of the Borrower and its Subsidiaries in connection with Credit Extensions hereunder and that it has made and shall continue to make its own appraisal of the creditworthiness of the Borrower and its Subsidiaries. No Agent shall have any duty or responsibility, either initially or on a continuing basis, to make any such investigation or any such appraisal on behalf of the Lenders or to provide any Lender with any credit or other information with respect thereto, whether coming into its possession before the making of the Loans or at any time or times thereafter, and no Agent shall have any responsibility with respect to the accuracy of or the completeness of any information provided to the Lenders.

(b) Each Lender, by delivering its signature page to this Agreement and funding its Loans or making its LC Deposit on the Closing Date, or delivering its signature page to an Assignment and Acceptance, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be approved by any Agent or Lenders, as applicable, on the Closing Date.

Section 9.06. Right to Indemnity. Each Lender, in proportion to its "pro rata share", severally agrees to indemnify each Agent, to the extent that such Agent shall not have been reimbursed by any Loan Party, for and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including counsel fees and disbursements) or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against such Agent in exercising its powers, rights and remedies or performing its duties hereunder or under the other Loan Documents or otherwise in its capacity as such Agent in any way relating to or arising out of this Agreement or the other Loan Documents; provided, no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from such Agent's gross negligence or willful misconduct. If any indemnity furnished to any Agent for any purpose shall, in the opinion of such Agent, be insufficient or become impaired, such Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; provided, in no event shall this sentence require any Lender to indemnify any Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement in excess of such Lender's Applicable Percentage thereof; and provided further, this sentence shall not be deemed to require any Lender to indemnify any Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement described in the proviso in the immediately preceding sentence. For purposes of this paragraph, "pro rata share" means the percentage obtained by dividing (a) an amount equal to the sum of the aggregate principal amount of Loans, LC Exposure and unused Commitment of a Lender by (b) an amount equal to the sum of the aggregate principal amount of Loans, LC Exposures and unused Commitments of all Lenders.

Section 9.07. Successor Agents. Each of the Administrative Agent and the Deposit Agent may resign at any time by giving 30 days' prior written notice thereof to the Lenders and the Borrower (and, in the case of the Deposit Agent, the Administrative Agent). The Administrative Agent may be removed at any time with or without cause by an instrument or concurrent instruments in writing delivered to the Borrower and the Administrative Agent and signed by the Required Lenders. The Deposit Agent may be removed at any time with or without cause by an instrument or concurrent instruments in writing delivered to the Borrower and the Deposit Agent and signed by the Required LC Lenders and the Administrative Agent. Upon any such notice of resignation or any such removal, (a) the Required Lenders shall have the right to appoint a successor Administrative Agent that shall have been approved by the Borrower (such approval not to be unreasonably withheld) and (b) the Required LC Lenders shall have the right to appoint a successor Deposit Agent that shall have been approved by the Borrower (such approval not to be unreasonably withheld). Upon the acceptance of any appointment as the Administrative Agent or as the Deposit Agent hereunder by a successor Administrative Agent or a successor Deposit Agent, such successor Administrative Agent or such successor Deposit Agent, as the case may be, shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Agent, and the retiring or removed Agent shall promptly (i) transfer to such applicable successor Agent all sums and other items of Collateral held under the Collateral Documents and, in the case of a retiring or removed Deposit Agent, all sums in the LC Deposit Account, together with all records and other documents necessary or appropriate in connection with the performance of the duties of such successor Agent under the Loan Documents, and (ii) in the case of a retiring or removed Administrative Agent, execute and deliver to such successor Administrative Agent such amendments to financing statements, and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Administrative Agent of the security interests created under the Collateral Documents, whereupon such retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder. Any resignation or removal of GSCP or its successor as the Administrative Agent pursuant to this Section 9.07 shall also constitute the resignation or removal of GSCP or its successor as the Collateral Agent. After any retiring or removed Agent's resignation or removal hereunder as an Agent, the provisions of this Article IX shall inure to its benefit as to any actions taken or omitted to be taken by it while it was such Agent hereunder. Any successor Administrative Agent appointed pursuant to this Section 9.07 shall, upon its acceptance of such appointment, become the successor Collateral Agent for all purposes hereof.

Section 9.08. Collateral Documents.

(a) Concerning Collateral Agent. Each Secured Party hereby further authorizes the Collateral Agent, on behalf of and for the benefit of Secured Parties, to be the agent for and representative of the Secured Parties with respect to the Collateral and the Collateral Documents; provided that the Collateral Agent shall owe no fiduciary duty, duty of loyalty, duty of care, duty of disclosure or any other obligation whatsoever to any holder of Obligations with respect to any Swap Contract. Subject to Section 10.01, without further written consent or authorization from any Secured Party, the Collateral Agent may execute any documents or instruments necessary to (i) in connection with a Disposition of assets permitted by this Agreement, release any Lien encumbering any item of Collateral that is the subject of such Disposition or to which Required Lenders (or such other Lenders as may be required to give such consent under Section 10.01) have otherwise consented or (ii) release any Subsidiary Loan Party from its obligations under the Guarantee and Collateral Agreement or any other Collateral Document in connection with a Disposition (including by merger or consolidation) of all of the Equity Interests of any Subsidiary Loan Party in accordance with the terms hereof or any other transaction with respect to which the Required Lenders (or such other Lenders as may be required to give such consent under Section 10.01) have otherwise consented.

(b) Right to Realize on Collateral and Enforce Guaranty. Anything contained in any of the Loan Documents to the contrary notwithstanding, the Borrower, the Administrative Agent, the Collateral Agent and each other Secured Party hereby agree that (i) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce any Guarantee of the Obligations, it being understood and agreed that all powers, rights and remedies hereunder may be exercised solely by the Administrative Agent, on behalf of the Secured Parties, in accordance with the terms hereof and all powers, rights and remedies under the Collateral Documents may be exercised solely by the Collateral Agent, on behalf of the Secured Parties, and (ii) in the event of a foreclosure by the Collateral Agent on any of the Collateral pursuant to a public or private sale or other disposition, the Collateral Agent or any Lender may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition, and the Collateral Agent, as agent for and representative of the Secured Parties (but not any Lender or Lenders in its or their respective individual capacities unless Required Lenders shall otherwise agree in writing) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by the Collateral Agent at such sale or other disposition. Each Secured Party, whether or not a party hereto, will be deemed, by its acceptance of the benefits of the Collateral and of the Guarantees of the Obligations provided under the Loan Documents, to have agreed to the foregoing provisions.

Section 9.09. No Arranger Duties. Anything herein to the contrary notwithstanding, no Arranger shall have any duties or responsibilities under this Agreement or any of the other Loan Documents solely in its capacity as an Arranger.

ARTICLE X

MISCELLANEOUS

Section 10.01. Amendments, Waivers, Etc. No amendment or waiver of any provision of this Agreement or of any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Borrower or, in the case of any Loan Document other than this Agreement, the applicable Loan Party or Loan Parties and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it is given; provided, however, that, subject to Section 10.16, no such amendment, waiver or consent shall:

(a) extend or increase any Commitment of any Lender without the written consent of such Lender (it being understood that a waiver of any condition or precedent set forth in Article IV, or waiver of any Default or Event of Default, mandatory prepayment or mandatory reduction of the Commitments, shall not constitute an extension or increase of any commitment of any Lender);

(b) postpone the maturity of any Loan, any date fixed for any scheduled payment of principal amount of any Loan under Section 2.06, any date fixed for repayment of any LC Deposit or a portion thereof to any LC Lender under Section 2.03(g), the required date of reimbursement of any LC Disbursement or any date for payment of interest or fees (including the LC Deposit Return and the LC Lender Fees) payable hereunder, or forgive, waive or excuse any such payment, repayment or reimbursement or any amount thereof, in each case without the written consent of each Lender directly affected thereby (it being understood that a waiver of any Default or Event Default, or a waiver of any mandatory prepayment of the Term Loans, shall not constitute a postponement of any date fixed for the payment of principal or interest);

(c) reduce the principal amount of, or the rate of interest specified herein on, any Loan or LC Disbursement, or reduce any LC Lender Fees or any other fees or premiums payable hereunder or the rate of the LC Deposit Return on any LC Deposit, in each case without the written consent of each Lender directly affected thereby; provided, however, that only the consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest or LC Lender Fees at the Default Rate;

(d) change Section 2.11(f) or 2.12 in a manner that would alter the pro rata sharing of payments required thereby without the prior written consent of each Lender;

(e) change any provision of this Section 10.01 or the percentage set forth in the definition of the term Required Lenders or any other provision hereof or of any other Loan Document specifying the number or percentage of Lenders (or Lenders of any Class) required to amend, waive or otherwise modify any rights thereunder or make any determination or grant any consent thereunder, without the written consent of each Lender (or each Lender of such Class, as the case may be);

(f) release all or substantially all the Collateral from the Liens of the Collateral Documents in any transaction or series of related transactions, without the written consent of each Lender (it being understood that a transaction permitted under Section 7.05 shall not be deemed to constitute a release of all or substantially all of the Collateral from the Liens of the Collateral Documents);

(g) release all or substantially all of the Subsidiary Loan Parties from their Guarantees under the Guarantee and Collateral Agreement (except as expressly provided in Section 9.08) or limit their liability in respect of such Guarantees, without the written consent of each Lender (it being understood that a transaction permitted under Section 7.05 shall not be deemed to constitute a release of all or substantially all of the Guarantees under the Guarantee and Collateral Agreement); and

(h) change any provisions of this Agreement or any other Loan Document in a manner that by its terms adversely affects the rights in respect of collateral or payments due to Lenders of one Class differently than Lenders of any other Class without the written consent of (i) if such adversely affected Lenders are Dollar Term B Lenders, the Required Dollar Term B Lenders, (ii) if such adversely affected Lenders are Dollar Term B II Lenders, the Required Dollar Term B II Lenders, (iii) if such adversely affected Lenders are Euro Term Lenders, the Required Euro Term Lenders and (iv) if such adversely affected Lenders are LC Lenders, the Required LC Lenders;

and provided further that, subject to Section 10.16, (i) no amendment, waiver or consent shall, unless in writing and signed by an LC Issuer in addition to the Lenders required above, affect the rights or duties of such LC Issuer under this Agreement or any other Loan Document; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent, the Collateral Agent, the Deposit Agent or the Syndication Agent in addition to the Lenders required above, affect the rights or duties of the Administrative Agent, the Collateral Agent, the Deposit Agent or the Syndication Agent, as the case may be, under this Agreement or any other Loan Document; and (iii) any amendment or waiver of, or consent to any departure from, this Agreement or any other Loan Document that by its terms affects the rights or duties thereunder of (A) Lenders of one Class but not Lenders of any other Class, (B) Term Lenders but not the LC Lenders or (C) LC Lenders but not the Term Lenders, may be effected by an agreement or agreements in writing signed by (x) the requisite percentage in interest of Lenders of the affected Class or Classes that would be required under this Section 10.01 to consent thereto if such Class or Classes of Lenders were the only Class of Lenders hereunder at the time and (y) the Borrower or, in the case of any Loan Document other than this Agreement, the applicable Loan Party or Loan Parties, and acknowledged by the Administrative Agent. Notwithstanding the foregoing, Section 2.03 may be amended by the Company, the Administrative Agent and the Deposit Agent or any LC Issuer, as the case may be, and without the consent of any Lender, to modify provisions relating to the LC Deposits or the issuance and administration of Letters of Credit issued by such LC Issuer as necessary to conform to the systems, procedures and policies of the Deposit Agent or such LC Issuer; provided, that no such amendment shall reduce or postpone the payment of any reimbursement, fee or other amount due to any LC Lender hereunder.

In the event that (a) the Borrower or the Administrative Agent has requested the Lenders to consent to a departure from or waiver of any provision of any Loan Document or to agree to any amendment thereof, (b) the consent, waiver or amendment in question requires under this Section 10.01 the agreement of all affected Lenders or all Lenders of a certain Class and (c) the Required Lenders (or, in the case of a required agreement of all Lenders of a certain Class, the Required Dollar Term Lenders, the Required Euro Term Lenders or the Required LC Lenders, as applicable) have agreed to such consent, waiver or amendment, then any Lender that does not agree to such consent, waiver or amendment shall be deemed to be a "***Non-Consenting Lender***." The Borrower shall be entitled to replace any Non-Consenting Lender in accordance with the provisions of Section 10.12.

Section 10.02. Notices and Other Communications; Facsimile Copies.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in Section 10.02(b)), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail, electronic mail or sent by facsimile as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrower, any Agent or any LC Issuer, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 10.02; and

(ii) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire.

Notices sent by hand or overnight courier service shall be deemed to have been given when received; notices mailed by certified or registered mail shall be deemed to have been given four Business Days after deposit in the mails postage prepaid; and notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient); provided, that no notice to any Agent shall be effective until received by such Agent; provided further, that any such notice or other communication shall at the request of any Agent be provided to any sub-agent appointed by it pursuant to Section 9.03(c) hereto, as designated by such Agent from time to time. Notices delivered through electronic communications to the extent provided in Section 10.02(b) shall be effective as provided in such Section.

(b) Electronic Communications. Notices, communications, information, documents and other materials delivered or furnished to the Lenders and the LC Issuers hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or any LC Issuer pursuant to Article II if such Lender or such LC Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to each of them hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender’s receipt of an acknowledgement from the intended recipient (such as by the “return receipt requested” function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) The Platform. The Platform and any Approved Electronic Communications are provided "as is" and "as available". None of the Agents or any of their respective officers, directors, employees, agents, advisors or representatives (the "***Agent Affiliates***") warrant the accuracy, adequacy or completeness of the Approved Electronic Communications or the Platform, and each of the Agents expressly disclaims liability for errors or omissions in the Platform and the Approved Electronic Communications. No warranty of any kind, express, implied or statutory, including any warranty of merchantability, fitness for a particular purpose, non-infringement of third party rights or freedom from viruses or other code defects is made by any Agent or any Agent Affiliates in connection with the Platform or the Approved Electronic Communications. Each of the Loan Parties understands that the distribution of material through an electronic medium is not necessarily secure and that there are confidentiality and other risks associated with such distribution, and agrees and assumes the risks associated with such electronic distribution, except to the extent caused by the willful misconduct or gross negligence of the Administrative Agent. Each of the Loan Parties, the Lenders, the LC Issuers and the other Agents agree that the Administrative Agent may, but shall not be obligated to, store any Approved Electronic Communications on the Platform in accordance with the Administrative Agent's customary document retention procedures and policies.

(d) Change of Address, Etc. Each of the Borrower, any Agent or any LC Issuer may change its address, facsimile number, electronic mail address or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each Lender may change its address, facsimile number, electronic mail address or telephone number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent and, in the case of the LC Lenders, each LC Issuer. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, facsimile number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender.

(e) Reliance by Administrative Agent, LC Issuers and Lenders. The Agents, the LC Issuers and the Lenders shall be entitled to rely and act upon any notices (including telephonic Committed Loan Notices) purportedly given by or on behalf of an authorized representative of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify each Agent, each LC Issuer, each Lender and the Related Parties of each of the foregoing from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower, other than losses, costs, expenses and liabilities resulting from the gross negligence or willful misconduct of such Person. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

Section 10.03. No Waiver; Cumulative Remedies. No failure by any Lender, any LC Issuer or any Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges provided hereunder and under each other Loan Document are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law or otherwise.

Section 10.04. Expenses; Indemnity; Damage Waiver.

(a) Costs and Expenses. Whether or not the transactions contemplated hereby shall be consummated, the Borrower agrees to pay promptly (i) all the actual and reasonable costs and expenses of preparation of the Loan Documents and any consents, amendments, waivers or other modifications thereto; (ii) all the costs of furnishing all opinions by counsel for the Borrower and the other Loan Parties; (iii) the reasonable fees, expenses and disbursements of counsel to the Agents and to either Arranger in connection with the negotiation, preparation, execution and administration of the Loan Documents and any consents, amendments, waivers or other modifications thereto and any other documents or matters requested by the Borrower; (iv) all the actual costs and reasonable expenses of creating, perfecting and recording Liens in favor of the Collateral Agent, for the benefit of the Secured Parties, including filing and recording fees, expenses and taxes, stamp or documentary taxes, search fees, title insurance premiums and reasonable fees, expenses and disbursements of counsel to any Agent and of counsel providing any opinions that any Agent or Required Lenders may request in respect of the Collateral or the Liens created pursuant to the Collateral Documents; (v) all the actual costs and reasonable fees, expenses and disbursements of any auditors, accountants, consultants or appraisers; (vi) all the actual costs and reasonable expenses (including the reasonable fees, expenses and disbursements of any appraisers, consultants, advisors and agents employed or retained by the Collateral Agent and its counsel) in connection with the custody or preservation of any of the Collateral; (vii) all other actual and reasonable costs and expenses incurred by any Agent or any Arranger in connection with the syndication of the Loans and Commitments and the negotiation, preparation and execution of the Loan Documents and any consents, amendments, waivers or other modifications thereto and the transactions contemplated thereby; and (viii) after the occurrence of a Default or an Event of Default, all costs and expenses, including reasonable attorneys' fees (including allocated actual costs of internal counsel) and costs of settlement, incurred by any Agent, Lenders and LC Issuers in enforcing any Obligations of or in collecting any payments due from any Loan Party hereunder or under the other Loan Documents by reason of such Default or Event of Default (including in connection with the sale, lease or license of, collection from, or other realization upon any of the Collateral or the enforcement of any Guarantee of the Obligations) or in connection with any refinancing or restructuring of the credit arrangements provided hereunder in the nature of a "work-out" or pursuant to any insolvency or bankruptcy cases or proceedings.

(b) Indemnification by the Borrower. In addition to the payment of expenses pursuant to Section 10.04(a), whether or not the transactions contemplated hereby shall be consummated, the Borrower agrees to defend (subject to Indemnitees' selection of counsel), indemnify, pay and hold harmless, each Agent, each Lender and each LC Issuer, and the officers, partners, members, directors, trustees, advisors, employees, agents, sub-agents and Affiliates of any of the foregoing (each, an "***Indemnitee***"), from and against any and all Indemnified Liabilities; provided that the Borrower shall have no obligation to any Indemnitee hereunder with respect to any Indemnified Liabilities to the extent such Indemnified Liabilities arise from the gross negligence or willful misconduct of such Indemnitee. To the extent that the undertakings to defend, indemnify, pay and hold harmless set forth in this Section 10.04(b) may be unenforceable in whole or in part because they violate any Law or public policy, the Borrower shall contribute the maximum portion that it is permitted to pay and satisfy under applicable Law to the payment and satisfaction of all Indemnified Liabilities incurred by Indemnitees or any of them.

(c) Waiver of Consequential Damages, Etc. To the extent permitted by applicable Law, the Borrower shall not assert, and hereby waives, any claim against each Lender, each Agent and their respective Affiliates, directors, employees, attorneys, agents or sub-agents, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) (whether or not the claim therefor is based on contract, tort or duty imposed by any applicable legal requirement) arising out of, in connection with, arising out of, as a result of, or in any way related to, this Agreement or any Loan Document or any agreement or instrument contemplated hereby or thereby or referred to herein or therein, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof or any act or omission or event occurring in connection therewith, and the Borrower hereby waives, releases and agrees not to sue upon any such claim or any such damages, whether or not accrued and whether or not known or suspected to exist in its favor.

(d) Payments. All amounts due under this Section 10.04 shall be payable not later than ten Business Days after demand therefor.

(e) Survival. The agreements in this Section 10.04 shall survive the resignation or removal of any Agent, the replacement of any Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all the other Obligations.

Section 10.05. Payments Set Aside. To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent, any LC Issuer or any Lender, or the Administrative Agent, any LC Issuer or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, such LC Issuer or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and each LC Issuer severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders and the LC Issuers under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

Section 10.06. Successors and Assigns.

(a) Generally. This Agreement shall be binding upon the parties hereto and their respective successors and assigns and shall inure to the benefit of the parties hereto and the successors and assigns of Lenders and the Agents. No rights or obligations of the Borrower hereunder nor any interest therein may be assigned or delegated by the Borrower without the prior written consent of each Lender. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby and, to the extent expressly contemplated hereby, Affiliates of each of the Agents and Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement

(b) Register. The Administrative Agent (or its agent or sub-agent appointed by it) shall maintain at the Administrative Agent's Office a register for the recordation of the names and addresses of Lenders and the Commitments, Loans, LC Deposit and Sub-Account of each Lender from time to time (the "***Register***"). The Register shall be available for inspection by the Borrower or any Lender (with respect to any entry relating to such Lender's Commitments, Loans, LC Deposit or Sub-Account) at any reasonable time and from time to time upon reasonable prior notice. The Administrative Agent shall record, or shall cause to be recorded, in the Register the Commitments, Loans, LC Deposits and Sub-Accounts in accordance with the provisions of this Section 10.06, and each repayment or prepayment in respect of the principal amount of the Loans and any repayment to the LC Lenders of its LC Deposit or any portion thereof, and any such recordation shall be conclusive and binding on the Borrower and each Lender, absent manifest error; provided that failure to make any such recordation, or any error in such recordation, shall not affect any Lender's Commitments or the Borrower's obligations hereunder. The Borrower hereby designates GSCP to serve as the Borrower's agent solely for purposes of maintaining the Register as provided in this Section 10.06(b), and the Borrower hereby agrees that, to the extent GSCP serves in such capacity, GSCP and its officers, directors, employees, agents, sub-agents and Affiliates shall constitute "Indemnitees."

(c) The Borrower, the Agents and the Lenders shall deem and treat the Persons listed as Lenders in the Register as the holders and owners of the corresponding Commitments, Loans and LC Deposits listed therein for all purposes hereof, and no assignment or transfer of any such Commitment, Loan or LC Deposit shall be effective, in each case, unless and until recorded in the Register following receipt of an Assignment and Assumption effecting the assignment thereof, together with the required forms and certificates regarding tax matters and any fees payable in connection with such assignment, in each case, as provided in Section 10.06(e). Each assignment shall be recorded in the Register on the Business Day the Assignment and Assumption is received by the Administrative Agent, if received by 12:00 p.m., and on the following Business Day if received after such time, prompt notice thereof shall be provided to the Borrower and a copy of such Assignment and Assumption shall be maintained, as applicable. The date of such recordation of an assignment shall be referred to herein as the "***Assignment Effective Date***". Any request, authority or consent of any Person who, at the time of making such request or giving such authority or consent, is listed in the Register as a Lender shall be conclusive and binding on any subsequent holder, assignee or transferee of the corresponding Commitments, Loans or LC Deposits.

(d) Right to Assign. Each Lender shall have the right at any time to assign all or a portion of its rights and obligations under this Agreement, including all or a portion of its Commitments, Loans and LC Deposit or of any other Obligations (provided, however, that each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement, except that this proviso shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's rights and obligations in respect of one Class of Commitments or Loans):

(i) to any Person meeting the criteria of clause (a) of the definition of the term Eligible Assignee upon the giving of notice to the Borrower and the Administrative Agent; and

(ii) to any Person meeting the criteria of clause (b) of the definition of the term Eligible Assignee upon the giving of notice to the Borrower and the Administrative Agent; provided, further each such assignment pursuant to this Section 10.06(d)(ii) shall be in an aggregate amount of not less than $1,000,000, or such lesser amount as may be agreed to by the Borrower and the Administrative Agent or as shall constitute the aggregate amount of the Dollar Term B Loans, the Dollar Term B II Loans or the Euro Term Loans, or the LC Deposit, of the assigning Lender.

(e) Mechanics. Assignments and assumptions of Loans, Commitments and LC Deposits shall be effected by manual execution and delivery to the Administrative Agent of an Assignment and Assumption. Assignments made pursuant to the foregoing provision shall be effective as of the Assignment Effective Date. In connection with all assignments there shall be delivered to the Administrative Agent such forms, certificates or other evidence, if any, with respect to United States federal income tax withholding matters as the assignee under such Assignment and Assumption may be required to deliver pursuant to Section 3.01(f), together with payment to the Administrative Agent of a registration and processing fee of $3,500 (except that no such registration and processing fee shall be payable (i) in connection with an assignment by or to GSCP or any Affiliate thereof or (ii) in the case of an Assignee that is already a Lender or is an Affiliate or Related Fund of a Lender or a Person under common management with a Lender). In connection with each assignment of an LC Commitment or an LC Deposit, the LC Deposit of the assignor LC Lender shall not be released, but shall instead be purchased by the relevant assignee and continue to be held for application (to the extent not already applied) in accordance with Article II to satisfy such assignee's obligations in respect of its LC Exposure. Each LC Lender agrees that on the Assignment Effective Date for any such assignment (i) the Administrative Agent shall establish a new Sub-Account in the name of the assignee, (ii) a corresponding portion of the LC Deposit credited to the Sub-Account of the assignor LC Lender shall be purchased by the assignee and shall be transferred from the Sub-Account of the assignor to the Sub-Account of the assignee and (iii) if after giving effect to such assignment the LC Deposit of the assignor LC Lender shall be zero, the Administrative Agent shall close the Sub-Account of such assignor.

(f) Representations and Warranties of Assignee. Each Lender, upon execution and delivery hereof or upon succeeding to an interest in the Commitments, Loans or LC Deposits, as the case may be, represents and warrants as of the Closing Date or as of the Assignment Effective Date that (i) it is an Eligible Assignee; (ii) it has experience and expertise in the making of or investing in commitments or loans such as the applicable Commitments or Loans, as the case may be; and (iii) it will make or invest in, as the case may be, its Commitments or Loans for its own account in the ordinary course and without a view to distribution of such Commitments or Loans within the meaning of the Securities Laws (it being understood that, subject to the provisions of this Section 10.06, the disposition of such Commitments or Loans or any interests therein shall at all times remain within its exclusive control).

(g) Effect of Assignment. Subject to the terms and conditions of this Section 10.06, as of the Assignment Effective Date with respect to any Assignment and Assumption, (i) the assignee thereunder shall have the rights and obligations of a Lender hereunder to the extent of its interest in the Loans, Commitments and LC Deposit as reflected in the Register and shall thereafter be a party hereto and a Lender for all purposes hereof; (ii) the assigning Lender thereunder shall, to the extent that rights and obligations hereunder have been assigned to the assignee, relinquish its rights (other than any rights which expressly survive the termination hereof) and be released from its obligations hereunder (and, in the case of an assignment covering all or the remaining portion of an assigning Lender's rights and obligations hereunder, such Lender shall cease to be a party hereto on the Assignment Effective Date; provided, anything contained in any of the Loan Documents to the contrary notwithstanding, (A) an LC Issuer shall continue to have all rights and obligations thereof with respect to Letters of Credit issued by it hereunder until the cancellation or expiration of such Letters of Credit and the reimbursement of any amounts drawn thereunder and (B) such assigning Lender shall continue to be entitled to the benefit of all indemnities hereunder as specified herein with respect to matters arising out of the prior involvement of such assigning Lender as a Lender hereunder); and (iii) the Commitments and Applicable Percentages shall be modified to reflect such assignment.

(h) Participations.

(i) Each Lender shall have the right at any time to sell one or more participations to any Person (other than the Borrower, any of its Subsidiaries or any of its other Affiliates) in all or any part of its Commitments, Loans or other Obligations.

(ii) The holder of any such participation, other than an Affiliate of the Lender granting such participation, shall not be entitled to require such Lender to take or omit to take any action hereunder, except with respect to any amendment, waiver or consent described in the first proviso to Section 10.01 that affects such participant.

(iii) The Borrower agrees that each participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.06(d); provided that (A) a participant shall not be entitled to receive any greater payment under Section 3.01 or 3.04 than the applicable Lender would have been entitled to receive with respect to the participation sold to such participant and (B) a participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 3.01 unless the Borrower is notified of the participation sold to such participant and such participant agrees, for the benefit of the Borrower, to comply with Section 3.01 as though it were a Lender; provided further that, except as specifically set forth in clauses (A) and (B) of this sentence, nothing herein shall require any notice to the Borrower or any other Person in connection with the sale of any participation. To the extent permitted by Law, each participant also shall be entitled to the benefits of Section 10.08 as though it were a Lender, provided (1) such Participant agrees to be subject to Section 2.12 as though it were a Lender and (2) the Borrower is notified of the participation sold to such participant.

(i) Certain Other Assignments and Participations. In addition to any other assignment or participation permitted pursuant to this Section 10.06, any Lender may assign and/or pledge all or any portion of its Loans and the other Obligations owed to such Lender, if any, to secure obligations of such Lender, including to any Federal Reserve Bank as collateral security pursuant to Regulation A of the FRB and any operating circular issued by such Federal Reserve Bank; provided, that no Lender, as between the Borrower and such Lender, shall be relieved of any of its obligations hereunder as a result of any such assignment and pledge; and provided further, that in no event shall the applicable Federal Reserve Bank, pledgee or trustee be considered to be a "Lender" or be entitled to require the assigning Lender to take or omit to take any action hereunder.

Section 10.07. Confidentiality. Each Agent, each Lender and each LC Issuer shall hold all non-public information regarding the Borrower and its Subsidiaries and their businesses identified as such by the Borrower and obtained by such Agent, Lender or LC Issuer pursuant to the requirements hereof in accordance with such Agent's, Lender's or LC Issuer's customary procedures for handling confidential and non-public information of such nature, it being understood and agreed by the Borrower that, in any event, the Agents, the Lenders and the LC Issuers may make (a) disclosures of such information to their respective Affiliates and to their respective agents and advisors (and to other Persons authorized by such Agent, such Lender or such LC Issuer to organize, present or disseminate such information in connection with disclosures otherwise made in accordance with this Section 10.07), (b) disclosures of such information reasonably required by any bona fide or potential assignee, transferee or participant in connection with the contemplated assignment, transfer or participation of any Commitments or Loans or any participations therein or by any direct or indirect contractual counterparties (or the professional advisors thereto) to any swap or derivative transaction relating to the Borrower and its obligations (provided that such assignees, transferees, participants, counterparties and advisors are advised of and agree to be bound by either the provisions of this Section 10.07 or other provisions at least as restrictive as this Section 10.07)), (c) disclosure to any rating agency when required by it, provided that, prior to any disclosure, such rating agency shall undertake in writing to preserve the confidentiality of any confidential and non-public information relating to the Loan Parties received by it from any of the Agents or any Lender and (d) disclosures required or requested by any governmental agency or representative thereof or by the NAIC or pursuant to legal or judicial process; provided, unless specifically prohibited by applicable Law, each Agent, each Lender and each LC Issuer shall make reasonable efforts to notify the Borrower of any request by NAIC or any governmental agency or representative thereof (other than any such request in connection with any examination of the financial condition or other routine examination of such Person by such governmental agency), or pursuant to any legal or judicial process, for disclosure of any such non-public information prior to disclosure of such information. In addition, each Agent, each Lender and each LC Issuer may disclose the existence of this Agreement and the information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Agents and the Lenders in connection with the administration and management of this Agreement and the other Loan Documents.

Section 10.08. Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and each LC Issuer is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender or such LC Issuer to or for the credit or the account of the Borrower or any other Loan Party against any and all of the Obligations of the Borrower or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or such LC Issuer, irrespective of whether or not such Lender or such LC Issuer shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower or such Loan Party may be contingent or unmatured or are owed to a branch or office of such Lender or such LC Issuer different from the branch or office holding such deposit or obligated on such indebtedness. The rights of each Lender and each LC Issuer under this Section 10.08 are in addition to other rights and remedies (including other rights of setoff) that such Lender and such LC Issuer may have. Each Lender and each LC Issuer agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not be deemed to affect the validity of such setoff and application.

Section 10.09. Counterparts; Effectiveness; Integration. (a) This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or by an electronically mailed scanned copy shall be effective as delivery of a manually executed counterpart of this Agreement. Except as provided in Article IV, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto.

(b) This Agreement, the other Loan Documents and the Fee Letters constitute the entire agreement among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

Section 10.10. Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by each Agent and each Lender, regardless of any investigation made by any Agent or any Lender or on their behalf and notwithstanding that any Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

Section 10.11. Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 10.12. Replacement of Lenders. If any Lender requests compensation under Section 3.04, or if the Borrower is required to pay or delivers to such Lender and the Administrative Agent a certificate setting forth reasons as to why it reasonably anticipates that it will be required to pay, and such Lender and the Administrative Agent agree with such reasons, any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, if any Lender ceases to make Eurocurrency Rate Loans as a result of a condition described in Section 3.02 or 3.04, if any Lender is a Non-Consenting Lender or if any other circumstance exists hereunder that gives the Borrower the right to replace a Lender as a party hereto, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.06), all of its interests, rights and obligations under this Agreement and the other Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

(a) the Borrower or assignee shall have paid to the Administrative Agent the registration and processing fee specified in Section 10.06(e);

(b) such Lender shall have received payment of an amount equal to the sum of (i) the outstanding principal amount of its Loans and all interest accrued thereon, (ii) its LC Deposit and the LC Deposit Return accrued thereon, (iii) all accrued and unpaid LC Lender Fees owing to such Lender and (iv) all other amounts payable to such Lender hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of the amounts referred to in clauses (i), (ii) and (iii)) or the Borrower (in the case of the amounts referred to in clause (iv));

(c) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter; and

(d) such assignment does not conflict with applicable Law.

A Lender shall not be required to make any such assignment if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment cease to apply.

Section 10.13. Governing Law; Jurisdiction; Etc.

(a) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) SUBMISSION TO JURISDICTION. EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT ANY AGENT, ANY LENDER OR ANY LC ISSUER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST THE BORROWER OR ANY OTHER LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. THE BORROWER IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 10.02 (OTHER THAN BY EMAIL OR OTHER ELECTRONIC COMMUNICATION). NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW

Section 10.14. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 10.15. Patriot Act. Each Lender and each Agent (for itself and not on behalf of any Lender) hereby notifies each Loan Party that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law on October 26, 2001)), it is required to obtain, verify and record information that identifies the Borrower and each Subsidiary Loan Party, which information includes the name and address of the Borrower and the Subsidiary Loan Parties and other information that will allow such Lender or Agent, as applicable, to identify the Borrower and the Subsidiary Loan Parties in accordance with such Act.

Section 10.16. Concerning the Permitted ABL Facility. The Lenders acknowledge that obligations of the Borrower under the Permitted ABL Facility may be secured by Liens on assets of the Borrower and its Subsidiaries that constitute ABL Collateral. At the request of the Borrower, the Administrative Agent or the Collateral Agent shall enter into the ABL Intercreditor Agreement establishing the relative rights of the Lenders and of the lenders under the Permitted ABL Facility with respect to the ABL Collateral. Each Lender hereby irrevocably authorizes and directs the Administrative Agent and/or the Collateral Agent to execute and deliver ABL Intercreditor Agreement and any documents relating thereto, in each case, on behalf of such Lender and without any further consent, authorization or other action by such Lender, and agrees that no Lender shall have any right of action whatsoever against the Administrative Agent or the Collateral Agent as a result of any action taken by such Agent pursuant to this Section 10.16. The Administrative Agent and the Collateral Agent shall have the benefit of the provisions of Article IX with respect to all actions taken by them pursuant to this Section 10.16 to the full extent thereof.

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

SPECTRUM BRANDS, INC., as the Borrower

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Executive Vice President and Chief Financial Officer

SPECTRUM BRANDS, INC., as the Borrower

By: /s/ James T. Lucke

Name: James T. Lucke
Title: Senior Vice President, Secretary and General Counsel

GOLDMAN SACHS CREDIT PARTNERS L.P., individually and as the Administrative Agent, the Collateral Agent and the Syndication Agent

By: /s/ Walter A. Jackson

Name: Walter A. Jackson
Title: Authorized Signatory

WACHOVIA BANK, NATIONAL ASSOCIATION, as the Deposit Agent

By: /s/ Vicky Balmot

Name: Vicky Balmot
Title: Managing Director

BANK OF AMERICA, N.A., as an LC Issuer

By: /s/ Kevin M. Behan

Name: Kevin M. Behan
Title: SVP

GUARANTEE AND COLLATERAL AGREEMENT

dated as of

March 30, 2007,

among

SPECTRUM BRANDS, INC.,

THE SUBSIDIARIES OF SPECTRUM BRANDS, INC.
IDENTIFIED HEREIN

and

GOLDMAN SACHS CREDIT PARTNERS L.P.,

as the Collateral Agent

TABLE OF CONTENTS

GUARANTEE AND COLLATERAL AGREEMENT dated as of March 30, 2007, among SPECTRUM BRANDS, INC., a Wisconsin corporation (the "*Borrower*"), the Subsidiaries of the Borrower identified herein and GOLDMAN SACHS CREDIT PARTNERS L.P., as the Collateral Agent.

Reference is made to the Credit Agreement dated as of March 30, 2007 (as amended, supplemented or otherwise modified from time to time, the "*Credit Agreement*"), among the Borrower, the Lenders party thereto, Goldman Sachs Credit Partners L.P., as the Administrative Agent, the Collateral Agent and the Syndication Agent, Wachovia Bank, National Association, as the Deposit Agent, and Bank of America, N.A., as an LC Issuer. The Lenders and the LC Issuers have agreed to extend credit to the Borrower subject to the terms and conditions set forth in the Credit Agreement. The obligations of the Lenders and the LC Issuers to extend such credit are conditioned upon, among other things, the execution and delivery of this Agreement. The Subsidiary Loan Parties are Affiliates of the Borrower, will derive substantial benefits from the extension of credit to the Borrower pursuant to the Credit Agreement and are willing to execute and deliver this Agreement in order to induce the Lenders and the LC Issuers to extend such credit. Accordingly, the parties hereto agree as follows:

ARTICLE I

Definitions

SECTION 1.01. *Credit Agreement.* (a) Capitalized terms used in this Agreement (including the preamble hereto) and not otherwise defined herein have the meanings specified in the Credit Agreement. All terms defined in the New York UCC (as defined herein) and not defined in this Agreement or in the Credit Agreement have the meanings specified therein; the term "instrument" shall have the meaning specified in Article 9 of the New York UCC.

(b) The rules of construction specified in Section 1.02 of the Credit Agreement also apply to this Agreement.

SECTION 1.02. *Other Defined Terms*. As used in this Agreement, the following terms have the meanings specified below:

"*Account Debtor*" means any Person who is or who may become obligated to any Loan Party under, with respect to or on account of an Account.

"*Article 9 Collateral*" has the meaning assigned to such term in Section 4.01 hereof.

"*Borrower*" has the meaning assigned to such term in the preliminary statement to this Agreement.

"*Collateral*" means Article 9 Collateral and Pledged Collateral.

"*Copyright License*" means any written agreement, now or hereafter in effect, granting any right to any third party under any copyright now or hereafter owned by any Loan Party or that such Loan Party otherwise has the right to license, or granting any right to any Loan Party under any copyright now or hereafter owned by any third party, and all rights of such Loan Party under any such agreement.

"*Copyrights*" means all of the following now owned or hereafter acquired by any Loan Party: (a) all copyright rights in any work subject to the copyright laws of the United States or any other country, whether as author, assignee, transferee or otherwise, and (b) all registrations and applications for registration of any such copyright in the United States or any other country, including registrations, recordings, supplemental registrations and pending applications for registration in the United States Copyright Office, including those listed on Schedule III.

"*Credit Agreement*" has the meaning assigned to such term in the preliminary statement to this Agreement.

"*Federal Securities Laws*" has the meaning assigned to such term in Section 5.04.

"*General Intangibles*" means all choses in action and causes of action and all other intangible personal property of every kind and nature (other than Accounts) now owned or hereafter acquired by any Loan Party and all other "general intangibles" as defined in the New York UCC (other than Accounts), including corporate or other business records, indemnification claims, contract rights (including rights under leases, whether entered into as lessor or lessee, Swap Contracts and other agreements), Intellectual Property, goodwill, registrations, franchises, tax refund claims and any letter of credit, guarantee, claim, security interest or other security held by or granted to any Loan Party to secure payment by an Account Debtor of any of the Accounts.

"*Intellectual Property*" means all intellectual and similar property of every kind and nature now owned or hereafter acquired by any Loan Party, including inventions, designs, Patents, Copyrights, Licenses, Trademarks, trade secrets, confidential or proprietary technical and business information, know-how, show-how or other proprietary data or information, rights in software and databases and rights in all embodiments or fixations thereof and rights in related documentation, registrations and franchises, and all additions, improvements and accessions to any of the foregoing.

"*IP Security Agreements*" has the meaning assigned to such term in Section 4.02(b) hereof.

"*Lender Party*" means each Lender, each Agent, each Arranger, each LC Issuer and each of their respective Affiliates (including any Person that is a Lender, an Agent or an LC Issuer (or that is such an Affiliate) as of the Closing Date but subsequently ceases to be a Lender, an Agent or an LC Issuer (or such an Affiliate), as the case may be, if such Person is a counterparty to any Swap Contract with any Loan Party or provides any cash management services to any Loan Party).

"*License*" means any Patent License, Trademark License, Copyright License or other license or sublicense agreement to which any Loan Party is a party, including those listed on Schedule III.

"*Loan Parties*" means, collectively, the Borrower and the Subsidiary Loan Parties.

"*New York UCC*" means the Uniform Commercial Code as from time to time in effect in the State of New York.

"*Obligations*" means (a) the due and punctual payment by the Borrower of (i) the principal of and interest (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on the Loans, when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise, (ii) each payment required to be made by the Borrower under any Loan Document in respect of any Letter of Credit, when and as due, including payments in respect of reimbursement of LC Disbursements, interest thereon (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) and obligations to provide cash collateral, and (iii) all other monetary obligations of the Borrower to any of the Secured Parties under the Credit Agreement and each of the other Loan Documents, including obligations to pay LC Lender Fees, expense reimbursement obligations and indemnification obligations, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred, and any interest thereon accruing, during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), (b) the due and punctual payment of all the monetary obligations of each other Loan Party under or pursuant to the Credit Agreement and each of the other Loan Documents, (c) the due and punctual payment and performance of all monetary obligations of each Loan Party under each Swap Contract with a counterparty that is a Lender Party, whether such Swap Contract is in effect on the Closing Date or entered into after the Closing Date, (d) the due and punctual payment and performance of all monetary obligations of each Loan Party to any Lender Party in respect of cash management services (including treasury, depository, overdraft, credit or debit card, electronic funds transfer and other cash management arrangements) (other than cash management services provided after (i) the principal of each Loan and all LC Disbursements, interest and fees payable under the Credit Agreement have been paid in full, (ii) all Commitments under the Credit Agreement have been reduced to zero and (iii) no LC Issuer shall have any obligation to issue Letters of Credit under the Credit Agreement and no Letter of Credit is outstanding (other than any Letter of Credit the obligations under which have been cash collateralized in full or supported in full by letters of credit of other banks naming the applicable LC Issuer as the beneficiary, in each case, in a manner satisfactory to the applicable LC Issuer)) and (e) the due and punctual payment of all the monetary obligations of each Loan Party under or pursuant to the Qualified Foreign Credit Facility.

"*Patent License*" means any written agreement, now or hereafter in effect, granting to any third party any right to make, use or sell any invention on which a patent, now or hereafter owned by any Loan Party or that any Loan Party otherwise has the right to license, is in existence, or granting to any Loan Party any right to make, use or sell any invention on which a patent, now or hereafter owned by any third party, is in existence, and all rights of any Loan Party under any such agreement.

"*Patents*" means all of the following now owned or hereafter acquired by any Loan Party: (a) all letters patent of the United States or the equivalent thereof in any other country, all registrations and recordings thereof, and all applications for letters patent of the United States or the equivalent thereof in any other country, including registrations, recordings and pending applications in the United States Patent and Trademark Office or any similar offices in any other country, including those listed on Schedule III, and (b) all reissues, continuations, divisions, continuations-in-part, renewals or extensions thereof, and the inventions disclosed or claimed therein, including the right to make, use and/or sell the inventions disclosed or claimed therein.

"*Perfection Certificate*" means a certificate substantially in the form of Exhibit II, completed and supplemented with the schedules and attachments contemplated thereby, and duly executed by a Responsible Officer of the Borrower.

"*Pledged Collateral*" has the meaning assigned to such term in Section 3.01.

"*Pledged Debt Securities*" has the meaning assigned to such term in Section 3.01.

"*Pledged Equity Interests*" has the meaning assigned to such term in Section 3.01.

"*Pledged Securities*" means any promissory notes, stock certificates or other securities now or hereafter included in the Pledged Collateral, including all certificates, instruments or other documents representing or evidencing any Pledged Collateral.

"*Proceeds*" has the meaning specified in Section 9-102 of the New York UCC.

"*Secured Parties*" means (a) the Lenders, (b) the Administrative Agent, (c) the Collateral Agent, (d) the Deposit Agent, (e) the Syndication Agent, (f) the Arrangers, (g) the LC Issuers, (h) the Lender Parties to whom any of the Obligations is owed, (i) each other Person to whom any of the Obligations referred to in clause (e) of the definition of such term is owed and (j) the permitted successors and assigns of each of the foregoing.

"*Security Interest*" has the meaning assigned to such term in Section 4.01.

"*Subsidiary Loan Parties*" means (a) the Subsidiaries identified on Schedule I and (b) each other Subsidiary that becomes a party to this Agreement as a Subsidiary Loan Party after the Closing Date.

"*Trademark License*" means any written agreement, now or hereafter in effect, granting to any third party any right to use any trademark now or hereafter owned by any Loan Party or that any Loan Party otherwise has the right to license, or granting to any Loan Party any right to use any trademark now or hereafter owned by any third party, and all rights of any Loan Party under any such agreement.

"*Trademarks*" means all of the following now owned or hereafter acquired by any Loan Party: (a) all trademarks, service marks, trade names, corporate names, company names, business names, fictitious business names, trade styles, trade dress, logos, other source or business identifiers and other general intangibles of like nature, now existing or hereafter adopted or acquired, all registrations and recordings thereof, and all registration and recording applications filed in connection therewith, including registrations and registration applications in the United States Patent and Trademark Office or any similar offices in any State of the United States or any other country or any political subdivision thereof, and all extensions or renewals thereof, including those listed on Schedule III and (b) all goodwill associated therewith or symbolized thereby.

ARTICLE II

Guarantee

SECTION 2.01. *Guarantee*. Each Loan Party (including the Borrower) unconditionally guarantees, jointly with the other Loan Parties and severally, as a primary obligor and not merely as a surety, the due and punctual payment of the Obligations. Each Loan Party further agrees that the Obligations may be extended or renewed, in whole or in part, or amended or modified, without notice to or further assent from it, and that it will remain bound upon its guarantee notwithstanding any extension or renewal, or amendment or modification, of any Obligation. Each Loan Party waives presentment to, demand of payment from and protest to the Borrower or any other Loan Party of any of the Obligations, and also waives notice of acceptance of its guarantee and notice of protest for nonpayment.

SECTION 2.02. *Guarantee of Payment*. Each Loan Party further agrees that its guarantee hereunder constitutes a guarantee of payment when due and not of collection, and waives any right to require that any resort be had by the Collateral Agent or any other Secured Party to any security held for the payment of the Obligations or to any balance of any deposit account or credit on the books of the Collateral Agent or any other Secured Party in favor of the Borrower or any other Person.

SECTION 2.03. *No Limitations.* (a) Except for termination of a Loan Party's obligations hereunder as expressly provided in Section 7.13, the obligations of each Loan Party hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason, including any claim of waiver, release, surrender, alteration or compromise of any Obligations, and shall not be subject to any defense or set-off, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of the Obligations or otherwise. Without limiting the generality of the foregoing, the obligations of each Loan Party hereunder shall not be discharged or impaired or otherwise affected by (i) the failure of the Collateral Agent or any other Secured Party to assert any claim or demand or to enforce any right or remedy under the provisions of any Loan Document or otherwise; (ii) any rescission, waiver, amendment or modification of, or any release from any of the terms or provisions of, any Loan Document or any other agreement, including with respect to any other Loan Party under this Agreement; (iii) the release of, or any impairment of or failure to perfect any Lien on or security interest in, any security held by the Collateral Agent or any other Secured Party for the Obligations or any of them; (iv) any default, failure or delay, wilful or otherwise, in the performance of the Obligations; or (v) any other act or omission that may or might in any manner or to any extent vary the risk of any Loan Party or otherwise operate as a discharge of any Loan Party as a matter of law or equity (other than the indefeasible payment in full in cash of all the Obligations). Each Loan Party expressly authorizes the Secured Parties to take and hold security in accordance with the terms of this Agreement and the other Loan Documents for the payment and performance of the Obligations, to exchange, waive or release any or all such security (with or without consideration), to enforce or apply such security and direct the order and manner of any sale thereof in their sole discretion or to release or substitute any one or more other Loan Parties or obligors upon or in respect of the Obligations, all without affecting the obligations of any Loan Party hereunder.

(b) To the fullest extent permitted by applicable Law, each Loan Party waives any defense based on or arising out of any defense of the Borrower or any other Loan Party or the unenforceability of the Obligations or any part thereof from any cause, or the cessation from any cause of the liability of any Borrower or any other Loan Party, other than the indefeasible payment in full in cash of all the Obligations. The Collateral Agent and the other Secured Parties may, at their election, foreclose on any security held by one or more of them in accordance with the terms of this Agreement and the other Loan Documents by one or more judicial or nonjudicial sales, accept an assignment of any such security in lieu of foreclosure, compromise or adjust any part of the Obligations, make any other accommodation with the Borrower or any other Loan Party or exercise any other right or remedy available to them against the Borrower or any other Loan Party, without affecting or impairing in any way the liability of any Loan Party hereunder except to the extent the Obligations have been fully and indefeasibly paid in full in cash. To the fullest extent permitted by applicable Law, each Loan Party waives any defense arising out of any such election even though such election operates, pursuant to applicable Law, to impair or to extinguish any right of reimbursement or subrogation or other right or remedy of such Loan Party against the Borrower or any other Loan Party, as the case may be, or any security.

SECTION 2.04. *Reinstatement*. Each Loan Party agrees that its guarantee hereunder shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any Obligation is rescinded or must otherwise be restored by the Collateral Agent or any other Secured Party upon the bankruptcy or reorganization of the Borrower, any other Loan Party or otherwise.

SECTION 2.05. *Agreement To Pay; Subrogation.* In furtherance of the foregoing and not in limitation of any other right that the Collateral Agent or any other Secured Party has at law or in equity against any Loan Party by virtue hereof, upon the failure of the Borrower or any other Loan Party to pay any Obligation when and as the same shall become due, whether at maturity, by acceleration, after notice of prepayment or otherwise, each Loan Party hereby promises to and will forthwith pay, or cause to be paid, to the Collateral Agent for distribution to the applicable Secured Parties in cash the amount of such unpaid Obligation. Upon payment by any Loan Party of any sums to the Collateral Agent as provided above, all rights of such Loan Party against the Borrower or any other Loan Party arising as a result thereof by way of right of subrogation, contribution, reimbursement, indemnity or otherwise shall in all respects be subject to Article VI.

SECTION 2.06. *Information*. Each Loan Party assumes all responsibility for being and keeping itself informed of the Borrower's and each other Loan Party's financial condition and assets, and of all other circumstances bearing upon the risk of nonpayment of the Obligations and the nature, scope and extent of the risks that such Loan Party assumes and incurs hereunder, and agrees that neither the Collateral Agent nor any of the other Secured Parties will have any duty to advise such Loan Party of information known to it or any of them regarding such circumstances or risks.

ARTICLE III

Pledge of Securities

SECTION 3.01. *Pledge*. As security for the payment in full of the Obligations, each Loan Party (including the Borrower) hereby pledges to the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties, and hereby grants to the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties, a security interest in, all of such Loan Party's right, title and interest in, to and under (a) (i) the shares of capital stock and other Equity Interests of each Subsidiary owned by it on the date hereof (including all such shares and other Equity Interests listed on Schedule II), (ii) any Equity Interests of a Subsidiary obtained by such Loan Party in the future and (iii) the certificates representing all such Equity Interests (all the foregoing being called the "*Pledged Equity Interests*"); *provided* that the Pledged Equity Interests shall not include (i) more than 65% of the issued and outstanding voting Equity Interests of any Foreign Subsidiary and (ii) any Equity Interests of any Dormant Subsidiary; (b)(i) all instruments and promissory notes owned by such Loan Party on the date hereof (including all such instruments and the promissory notes listed on Schedule II), and (ii) all instruments and promissory notes issued to or otherwise obtained by such Loan Party in the future (all the foregoing being called the "*Pledged Debt Securities*"); (c) subject to Section 3.06, all payments of principal or interest, dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of, in exchange for or upon the conversion of, and all other Proceeds received in respect of, the securities referred to in clauses (a) and (b) above; (d) subject to Section 3.06, all rights and privileges of such Loan Party with respect to the securities and other property referred to in clauses (a), (b) and (c) above; and (e) all Proceeds of any of the foregoing (the items referred to in clauses (a) through (e) above being collectively referred to as the "*Pledged Collateral*").

TO HAVE AND TO HOLD the Pledged Collateral, together with all right, title, interest, powers, privileges and preferences pertaining or incidental thereto, unto the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties, during the term of this Agreement; *subject*, *however*, to the terms, covenants and conditions hereinafter set forth.

SECTION 3.02. *Delivery of the Pledged Collateral*. (a) Each Loan Party agrees promptly to deliver or cause to be delivered to the Collateral Agent any and all Pledged Securities.

(b) Each Loan Party will cause any Indebtedness for borrowed money owed to such Loan Party by the Borrower or any Subsidiary to be evidenced by a duly executed promissory note that is pledged and delivered to the Collateral Agent pursuant to the terms hereof.

(c) Upon delivery to the Collateral Agent, (i) all Pledged Securities shall be accompanied by undated stock powers duly executed in blank or other undated instruments of transfer reasonably satisfactory to the Collateral Agent and duly executed in blank and (ii) all other property comprising part of the Pledged Collateral shall be accompanied by proper instruments of assignment duly executed by the applicable Loan Party and such other instruments or documents as the Collateral Agent may reasonably request. Each delivery of Pledged Securities shall be accompanied by a schedule describing such Pledged Securities, which schedule shall be attached hereto as a supplement to Schedule II and made a part hereof; *provided* that failure to attach any such schedule hereto shall not affect the validity of such pledge of such Pledged Securities.

SECTION 3.03. *Representations, Warranties and Covenants*. The Loan Parties jointly and severally represent, warrant and covenant to and with the Collateral Agent, for the benefit of the Secured Parties, that:

(a) Schedule II correctly sets forth the percentage of the issued and outstanding units of each class of the Equity Interests of the issuer thereof represented by the Pledged Equity Interests and includes all Equity Interests, debt securities and promissory notes required to be pledged hereunder in order to satisfy the Guarantee and Collateral Requirement;

(b) the Pledged Equity Interests and Pledged Debt Securities have been duly and validly authorized and issued by the issuers thereof (this representation and warranty being made, in the case of Pledged Debt Securities of a Person that is not the Borrower or a Subsidiary, to the knowledge of the applicable Loan Party) and (i) in the case of Pledged Equity Interests (other than interests in any limited liability company), are fully paid and nonassessable and (ii) in the case of Pledged Debt Securities (this representation and warranty being made, in the case of Pledged Debt Securities of a Person that is not the Borrower or a Subsidiary, to the knowledge of the applicable Loan Party), are legal, valid and binding obligations of the issuers thereof, and there exists no defense, offset or counterclaim to any obligation of the maker or issuer of any Pledged Debt Securities (this representation and warranty being made, in the case of Pledged Debt Securities of a Person that is not the Borrower or a Subsidiary, to the knowledge of the applicable Loan Party);

(c) except for the security interests granted hereunder, each Loan Party (i) is and, subject to any transfers made in compliance with the Credit Agreement, will continue to be the direct owner, beneficially and of record, of the Pledged Securities indicated on Schedule II as owned by such Loan Party, (ii) holds the same free and clear of all Liens, other than Liens created by the Loan Documents and Permitted Liens, (iii) will make no further assignment, pledge, hypothecation or transfer of, or create or permit to exist any security interest in or other Lien on, the Pledged Collateral, other than Permitted Liens and as otherwise permitted by the Credit Agreement, and (iv) will defend its title or interest thereto or therein against any and all Liens (other than Permitted Liens), however arising, of all Persons whomsoever;

(d) except for restrictions and limitations imposed or permitted by the Loan Documents or securities laws generally, the Pledged Collateral is freely transferable and assignable;

(e) each Loan Party has the power and authority to pledge the Pledged Collateral pledged by it hereunder in the manner hereby done or contemplated;

(f) no consent or approval of any Governmental Authority, any securities exchange or any other Person was or is necessary to the validity of the pledge effected hereby (other than such as have been obtained and are in full force and effect and other than consents or approvals that, individually or in the aggregate, could not reasonably be expected to be material to the interests of the Secured Parties hereunder);

(g) by virtue of the execution and delivery by the Loan Parties of this Agreement, when any Pledged Securities are delivered to the Collateral Agent in accordance with this Agreement, the Collateral Agent will obtain, for the benefit of the Secured Parties, a legal, valid and perfected first priority lien upon and security interest in such Pledged Securities as security for the payment of the Obligations; and

(h) each pledge effected hereby is effective to vest in the Collateral Agent, for the benefit of the Secured Parties, the rights of the Collateral Agent in the Pledged Collateral as set forth herein.

SECTION 3.04. *Certification of Limited Liability Company and Limited Partnership Interests*. With respect to any Equity Interests in a limited liability company or a limited partnership controlled by a Loan Party and pledged hereunder that are not represented by a certificate, such Loan Party represents that such interests are not "securities" within the meaning of Article 8 of the New York UCC and covenants and agrees that it shall at no time elect to treat any such Equity Interests as a "security" within the meaning of Article 8 of the New York UCC or request or permit the issuance of any certificate representing such Equity Interests, unless it provides prior written notice to the Collateral Agent of such election and immediately pledges and delivers any such certificate to the Collateral Agent pursuant to the terms hereof.

SECTION 3.05. *Registration in Nominee Name; Denominations*. The Collateral Agent, on behalf of the Secured Parties, shall have the right (in its sole and absolute discretion) to hold the Pledged Securities in its own name as pledgee, the name of its nominee (as pledgee or as sub-agent) or the name of the applicable Loan Party, endorsed or assigned in blank or in favor of the Collateral Agent. Each Loan Party will promptly give to the Collateral Agent copies of any notices or other communications received by it with respect to Pledged Securities registered in the name of such Loan Party. Upon the occurrence and during the continuance of an Event of Default, the Collateral Agent shall have the right to exchange the certificates representing Pledged Securities for certificates of smaller or larger denominations for any purpose consistent with this Agreement.

SECTION 3.06. *Voting Rights; Dividends and Interest.* (a) Unless and until an Event of Default shall have occurred and is continuing and the Collateral Agent shall have notified the Loan Parties that their rights under this Section 3.06 are being suspended:

(i) Each Loan Party shall be entitled to exercise any and all voting and/or other consensual rights and powers inuring to an owner of Pledged Securities or any part thereof for any purpose consistent with the terms of this Agreement, the Credit Agreement and the other Loan Documents; *provided that* such rights and powers shall not be exercised in any manner that could materially and adversely affect the rights and remedies of any of the Collateral Agent or the other Secured Parties under this Agreement or the Credit Agreement or any other Loan Document or the ability of the Secured Parties to exercise the same.

(ii) The Collateral Agent shall promptly execute and deliver to each Loan Party, or cause to promptly be executed and delivered to such Loan Party, all such proxies, powers of attorney and other instruments as such Loan Party may reasonably request for the purpose of enabling such Loan Party to exercise the voting and/or consensual rights and powers it is entitled to exercise pursuant to subparagraph (i) above.

(iii) Each Loan Party shall be entitled to receive and retain any and all dividends, interest, principal and other distributions paid on or distributed in respect of the Pledged Securities to the extent and only to the extent that such dividends, interest, principal and other distributions are permitted by, and otherwise paid or distributed in accordance with, the terms and conditions of the Credit Agreement, the other Loan Documents and applicable Laws; *provided* that any noncash dividends, interest, principal or other distributions that would constitute Pledged Equity Interests or Pledged Debt Securities, whether resulting from a subdivision, combination or reclassification of the outstanding Equity Interests of the issuer of any Pledged Securities or received in exchange for Pledged Securities or any part thereof, or in redemption thereof, or as a result of any merger, consolidation, acquisition or other exchange of assets to which such issuer may be a party or otherwise, shall be and become part of the Pledged Collateral, and, if received by any Loan Party, shall not be commingled by such Loan Party with any of its other funds or property but shall be held separate and apart therefrom, shall be held in trust for the benefit of the Collateral Agent and the other Secured Parties and shall be forthwith delivered to the Collateral Agent in the same form as so received (with any necessary endorsement, stock powers and other instruments of transfer).

(b) Upon the occurrence and during the continuance of an Event of Default, after the Collateral Agent shall have notified the Loan Parties of the suspension of their rights under paragraph (a)(iii) of this Section 3.06, all rights of any Loan Party to dividends, interest, principal or other distributions that such Loan Party is authorized to receive pursuant to such paragraph shall cease, and all such rights shall thereupon become vested in the Collateral Agent, which shall have the sole and exclusive right and authority to receive and retain such dividends, interest, principal or other distributions. All dividends, interest, principal or other distributions received by any Loan Party contrary to the provisions of this Section 3.06 shall be held in trust for the benefit of the Collateral Agent and the other Secured Parties, shall be segregated from other property or funds of such Loan Party and shall be forthwith delivered to the Collateral Agent upon demand in the same form as so received (with any necessary endorsement). Any and all money and other property paid over to or received by the Collateral Agent pursuant to the provisions of this paragraph (b) shall be retained by the Collateral Agent in an account to be established by the Collateral Agent upon receipt of such money or other property and shall be applied in accordance with the provisions of Section 5.02. After all Events of Default have been cured or waived and the Borrower has delivered to the Collateral Agent a certificate to that effect, the Collateral Agent shall promptly repay to each Loan Party (without interest) all dividends, interest, principal or other distributions that such Loan Party would otherwise be permitted to retain pursuant to the terms of paragraph (a)(iii) of this Section 3.06 and that remain in such account.

(c) Upon the occurrence and during the continuance of an Event of Default, after the Collateral Agent shall have notified the Loan Parties of the suspension of their rights under paragraph (a)(i) of this Section 3.06, all rights of any Loan Party to exercise the voting and consensual rights and powers it is entitled to exercise pursuant to paragraph (a)(i) of this Section 3.06, and the obligations of the Collateral Agent under paragraph (a)(ii) of this Section 3.06, shall cease, and all such rights shall thereupon become vested in the Collateral Agent, which shall have the sole and exclusive right and authority to exercise such voting and consensual rights and powers; *provided* that, unless otherwise directed by the Required Lenders, the Collateral Agent shall have the right from time to time following and during the continuance of an Event of Default to permit the Loan Parties to exercise such rights. After all Events of Default have been cured or waived, as the case may be, all rights vested in the Collateral Agent pursuant to this paragraph shall cease, and the Loan Parties shall have the voting and consensual rights and powers they would otherwise be entitled to exercise pursuant to paragraph (a)(i) of this Section 3.06.

(d) Any notice given by the Collateral Agent to the Loan Parties suspending their rights under paragraph (a) of this Section 3.06 (i) may be given by telephone if promptly confirmed in writing, (ii) may be given to one or more of the Loan Parties at the same or different times and (iii) may suspend the rights of the Loan Parties under paragraph (a)(i) or paragraph (a)(iii) in part without suspending all such rights (as specified by the Collateral Agent in its sole and absolute discretion) and without waiving or otherwise affecting the Collateral Agent's rights to give additional notices from time to time suspending other rights so long as an Event of Default has occurred and is continuing.

ARTICLE IV

Security Interests in Personal Property

SECTION 4.01. *Security Interest*. (a) As security for the payment in full of the Obligations, each Loan Party (including the Borrower) hereby pledges to the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties, and hereby grants to the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties, a security interest (the "*Security Interest*") in, all right, title or interest in or to any and all of the following assets and properties now owned or at any time hereafter acquired by such Loan Party or in which such Loan Party now has or at any time in the future may acquire any right, title or interest (collectively, the "*Article 9 Collateral*"):

(i) all Accounts;

(ii) all Chattel Paper;

(iii) all cash and Deposit Accounts;

(iv) all Documents;

(v) all Equipment;

(vi) all General Intangibles;

(vii) all Instruments;

(viii) all Inventory;

(ix) all Investment Property;

(x) all letter-of-credit rights;

(xi) all commercial tort claims specified on Schedule IV;

(xii) all books and records pertaining to the Article 9 Collateral; and

(xiii) to the extent not otherwise included, all Proceeds and products of any and all of the foregoing and all collateral security and guarantees given by any Person with respect to any of the foregoing.

(b) Each Loan Party hereby irrevocably authorizes the Collateral Agent at any time and from time to time to file in any relevant jurisdiction any initial financing statements (including fixture filings) with respect to the Article 9 Collateral or any part thereof and amendments thereto and continuations thereof that contain the information required by Article 9 of the Uniform Commercial Code of each applicable jurisdiction for the filing of any financing statement or amendment, including (a) whether such Loan Party is an organization, the type of organization and any organizational identification number issued to such Loan Party and (b) in the case of a financing statement filed as a fixture filing, a sufficient description of the real property to which such Article 9 Collateral relates. Each Loan Party agrees to provide such information to the Collateral Agent promptly upon request. Without limiting the foregoing, each Loan Party hereby irrevocably authorizes the Collateral Agent at any time and from time to time to file in any relevant jurisdiction financing statements that describe the Collateral as "all assets, whether now owned or hereafter acquired" of such Loan Party, or words of similar effects as being of an equal or lesser scope or with greater detail.

Each Loan Party also ratifies its authorization for the Collateral Agent to file in any relevant jurisdiction any initial financing statements or amendments thereto if filed prior to the date hereof.

The Collateral Agent is further authorized to file with the United States Patent and Trademark Office or United States Copyright Office (or any successor office or any similar office in any other country) such documents as may be necessary or advisable for the purpose of perfecting, confirming, continuing, enforcing or protecting the Security Interest granted by each Loan Party, without the signature of any Loan Party, and naming any Loan Party or the Loan Parties as debtors and the Collateral Agent as secured party.

(c) The Security Interest is granted as security only and shall not subject the Collateral Agent or any other Secured Party to, or in any way alter or modify, any obligation or liability of any Loan Party with respect to or arising out of the Article 9 Collateral (other than the duties expressly created hereunder).

(d) Notwithstanding anything herein to the contrary, in no event shall the security interest granted hereunder attach to any license, contract or agreement to which a Loan Party is a party or any of its rights or interests thereunder if and for so long as the grant of such security interest shall constitute or result in (i) the abandonment, invalidation or unenforceability of any right, title or interest of the Loan Party therein or (ii) in a breach or termination pursuant to the terms of, or a default under, any such license, contract or agreement (other than to the extent that any such term would be rendered ineffective pursuant to Section 9-406, 9-407, 9-408 or 9-409 of the New York UCC or any other applicable law or principles of equity), *provided*, *however*, that such security interest shall attach immediately at such time as the condition causing such abandonment, invalidation or unenforceability shall be remedied and, to the extent severable, shall attach immediately to any portion of such license, contract or agreement that does not result in any of the consequences specified in (i) or (ii) including, without limitation, any proceeds of such contract or agreement, *provided further* that in no event shall the Security Interest granted hereunder attach to (i) more than 65% of the issued and outstanding voting Equity Interests of any Foreign Subsidiary, (ii) any Equity Interests of any Dormant Subsidiary or (iii) any trademark or service mark applications filed in the United States Patent and Trademark Office on the basis of any Loan Party's "intent to use" such mark unless and until the earlier of the filing of an amendment to allege use (or statement of use) or the issuance of a registration.

SECTION 4.02. *Representations and Warranties*. The Loan Parties jointly and severally represent and warrant to the Collateral Agent and the other Secured Parties that:

(a) Each Loan Party has good and valid rights in and title to the Article 9 Collateral with respect to which it has purported to grant a Security Interest hereunder and has full power and authority to grant to the Collateral Agent, for the benefit of the Secured Parties, the Security Interest in such Article 9 Collateral pursuant hereto and to execute, deliver and perform its obligations in accordance with the terms of this Agreement, without the consent or approval of any other Person other than any consent or approval that has been obtained, except to the extent that the failure to have such rights, title, power or authority could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) The Perfection Certificate has been duly prepared, completed and executed and the information set forth therein, including the exact legal name and place of organization of each Loan Party, is correct and complete as of the Closing Date. The Uniform Commercial Code financing statements (including fixture filings, as applicable) or other appropriate filings, recordings or registrations prepared by the Collateral Agent based upon the information provided to the Collateral Agent in the Perfection Certificate for filing in each governmental, municipal or other office specified in Schedules 2A and 2B to the Perfection Certificate (or specified by notice from the Borrower to the Collateral Agent after the Closing Date in the case of filings, recordings or registrations required by Section 6.13(b) or 6.15 of the Credit Agreement), are all the filings, recordings and registrations (other than filings required to be made in the United States Patent and Trademark Office and the United States Copyright Office in order to perfect the Security Interest in Article 9 Collateral consisting of United States Patents, Trademarks and Copyrights and the taking of appropriate actions with respect to Intellectual Property that is the subject of a registration or application outside the U.S. under applicable local Law to perfect such Security Interest) that are necessary to publish notice of, perfect and protect the validity of and to establish a legal, valid and perfected security interest in favor of the Collateral Agent, for the benefit of the Secured Parties, in respect of all Article 9 Collateral in which the Security Interest may be perfected by filing, recording or registration in the United States (or any political subdivision thereof) and its territories and possessions, and no further or subsequent filing, refiling, recording, rerecording, registration or reregistration is necessary in any such jurisdiction, except as provided under applicable Law with respect to the filing of continuation statements, *provided* that subsequent recordings in the United States Patent and Trademark Office and United States Copyright Office and actions under applicable foreign Law may be necessary with respect to registrations and applications for Intellectual Property acquired by the Loan Parties after the date hereof. Each Loan Party shall ensure that a fully executed Trademark Security Agreement and, if any of Article 9 Collateral consists of Patents or Copyrights, Patent Security Agreement and Copyright Security Agreement (collectively, the "*IP Security Agreements*") in the form of Exhibits III, IV and V, respectively, hereto and containing a description of all Article 9 Collateral consisting of applicable Intellectual Property shall be submitted for recordation within three months after the execution of this Agreement with respect to United States Patents and United States registered Trademarks (and Trademarks for which United States registration applications are pending) and within one month after the execution of this Agreement with respect to United States registered Copyrights by the United States Patent and Trademark Office and the United States Copyright Office pursuant to 35 U.S.C. § 261, 15 U.S.C. § 1060 or 17 U.S.C. § 205 and the regulations thereunder, as applicable.

(c) The Security Interest constitutes (i) a legal and valid security interest in all the Article 9 Collateral securing the payment of the Obligations, (ii) subject to the filings described in Section 4.02(b), a perfected security interest in all Article 9 Collateral in which a security interest may be perfected by filing, recording or registering a financing statement or analogous document in the United States (or any political subdivision thereof) and its territories and possessions pursuant to the Uniform Commercial Code or other applicable Law in such jurisdictions and (iii) subject to the filings described in Section 4.02(b), a security interest that shall be perfected in all Article 9 Collateral in which a security interest may be perfected upon the receipt and recording of the IP Security Agreements with the United States Patent and Trademark Office and the United States Copyright Office, as applicable, within the three-month period (commencing as of the date hereof) pursuant to 35 U.S.C. § 261 or 15 U.S.C. § 1060 or the one-month period (commencing as of the date hereof) pursuant to 17 U.S.C. § 205. The Security Interest is and shall be prior to any other Lien on any of the Article 9 Collateral, other than Permitted Liens that have priority as a matter of law.

(d) The Article 9 Collateral is owned by the Loan Parties free and clear of any Lien, except for Permitted Liens. None of the Loan Parties has filed or consented to the filing of (i) any financing statement or analogous document under the Uniform Commercial Code or any other applicable Laws covering any Article 9 Collateral, (ii) any assignment in which any Loan Party assigns any Collateral or any security agreement or similar instrument covering any Article 9 Collateral with the United States Patent and Trademark Office or the United States Copyright Office or (iii) any assignment in which any Loan Party assigns any Article 9 Collateral or any security agreement or similar instrument covering any Article 9 Collateral with any foreign governmental, municipal or other office, which financing statement or analogous document, assignment, security agreement or similar instrument is still in effect, except, in each case, for Permitted Liens.

SECTION 4.03. *Covenants*. (a) Each Loan Party agrees to maintain, at its own cost and expense, such complete and accurate records with respect to the Article 9 Collateral owned by it as is consistent with its current practices and its reasonable business judgment, and, at such time or times as the Collateral Agent may reasonably request, promptly to prepare and deliver to the Collateral Agent an updated schedule in form and detail reasonably satisfactory to the Collateral Agent showing the identity, amount and location of any and all Article 9 Collateral.

(b) Each Loan Party shall, at its own expense, take any and all actions consistent with its current practices and its reasonable business judgment to defend title to the Article 9 Collateral against all Persons and to defend the Security Interest of the Collateral Agent in the Article 9 Collateral and the priority thereof against any Lien not expressly permitted pursuant to Section 7.01 of the Credit Agreement that is not a Permitted Lien.

(c) Each Loan Party agrees, at its own expense, to execute, acknowledge, deliver and cause to be duly filed all such further instruments and documents and take all such actions as the Collateral Agent may from time to time reasonably request to better assure, preserve, protect and perfect the Security Interest and the rights and remedies created hereby, including the payment of any fees and taxes required in connection with the execution and delivery of this Agreement, the granting of the Security Interest and the filing of any financing statements (including fixture filings) or other documents in connection herewith or therewith. If any amount payable under or in connection with any of the Article 9 Collateral shall be or become evidenced by any promissory note or other instrument, such note or instrument shall be promptly pledged and delivered to the Collateral Agent, duly endorsed in a manner reasonably satisfactory to the Collateral Agent.

Without limiting the generality of the foregoing, each Loan Party hereby authorizes the Collateral Agent, with prompt notice thereof to the Loan Parties, to supplement this Agreement by supplementing Schedule III or adding additional schedules hereto to specifically identify any asset or item that may constitute Copyrights, Licenses, Patents or Trademarks; *provided* that any Loan Party shall have the right, exercisable within 30 days (or such longer period as shall be agreed by the Borrower and the Collateral Agent) after it has been notified by the Collateral Agent of the specific identification of such Collateral, to advise the Collateral Agent in writing of any inaccuracy (i) with respect to such supplement or additional schedule or (ii) of the representations and warranties made by such Loan Party hereunder with respect to such Collateral. Each Loan Party agrees that it will use commercially reasonable efforts to take such action as shall be necessary in order that all representations and warranties hereunder shall be true and correct with respect to such Collateral within 30 days (or such longer period as shall be agreed by the Borrower and the Collateral Agent) after the date it has been notified by the Collateral Agent of the specific identification of such Collateral.

(d) Upon the occurrence and during the continuance of an Event of Default, the Collateral Agent and such Persons as the Collateral Agent may reasonably designate shall have the right upon reasonable prior notice, to inspect the Article 9 Collateral, all records related thereto (and to make extracts and copies from such records) and the premises upon which any of the Article 9 Collateral is located, to discuss the Loan Parties' affairs with the officers of the Loan Parties and their independent accountants and to verify under reasonable procedures, in accordance with Section 6.11 of the Credit Agreement, the validity, amount, quality, quantity, value, condition and status of, or any other matter relating to, the Article 9 Collateral, including, in the case of Accounts or other Article 9 Collateral in the possession of any third person, by contacting Account Debtors or the third person possessing such Article 9 Collateral for the purpose of making such a verification. The Loan Parties shall be required to pay all reasonable out-of-pocket costs and expenses incurred by the Collateral Agent or any other Person in connection with any inspection or verification referred to in this paragraph.

(e) At its option, the Collateral Agent may discharge past due taxes, assessments, charges, fees, Liens, security interests or other encumbrances at any time levied or placed on the Article 9 Collateral and not permitted pursuant to Section 7.01 of the Credit Agreement, and may pay for the maintenance and preservation of the Article 9 Collateral to the extent any Loan Party fails to do so as required by the Credit Agreement or this Agreement, and each Loan Party jointly and severally agrees to reimburse the Collateral Agent on demand for any payment made or any expense incurred by the Collateral Agent pursuant to the foregoing authorization; *provided* that nothing in this paragraph shall be interpreted as excusing any Loan Party from the performance of, or imposing any obligation on the Collateral Agent or any Secured Party to cure or perform, any covenants or other promises of any Loan Party with respect to taxes, assessments, charges, fees, Liens, security interests or other encumbrances and maintenance as set forth herein or in the other Loan Documents.

(f) If at any time any Loan Party shall take a security interest in any property with a value in excess of $1,000,000 in the aggregate of an Account Debtor or any other Person to secure payment and performance of an Account, such Loan Party shall promptly assign such security interest to the Collateral Agent, for the benefit of the Secured Parties. Such assignment need not be filed of public record unless necessary to continue the perfected status of the security interest against creditors of and transferees from the Account Debtor or other Person granting the security interest.

(g) Each Loan Party shall remain liable to observe and perform all the conditions and obligations to be observed and performed by it under each contract, agreement or instrument relating to the Article 9 Collateral, all in accordance with the terms and conditions thereof, and the Loan Parties jointly and severally agree to indemnify and hold harmless the Collateral Agent and the other Secured Parties from and against any and all liability for such performance.

(h) Each Loan Party agrees that it shall not request any warehouseman, agent, bailee or processor that possesses any Inventory of such Loan Party to acknowledge that such warehouseman, agent, bailee or processor holds such Inventory for the benefit of the collateral agent under the Permitted ABL Facility, or to agree to act upon the instructions of such collateral agent, unless such Loan Party shall concurrently request a corresponding acknowledgement or agreement, as the case may be, in each case, in writing, for the benefit of the Collateral Agent (and each Loan Party hereby agrees that in the event of such a request, it will use its commercially reasonable efforts to obtain such acknowledgment or agreement for the benefit of the Collateral Agent).

(i) None of the Loan Parties will, without the Collateral Agent's prior written consent, grant any extension of the time of payment of any Accounts included in the Article 9 Collateral, compromise, compound or settle the same for less than the full amount thereof, release, wholly or partly, any Person liable for the payment thereof or allow any credit or discount whatsoever thereon, other than extensions, compromises, settlements, releases, credits or discounts granted or made in the ordinary course of business and consistent with its current practices and in accordance with such prudent and standard practice used in industries that are the same as or similar to those in which such Loan Party is engaged.

(j) The Loan Parties, at their own expense, shall maintain or cause to be maintained insurance covering physical loss or damage to the Inventory and Equipment in accordance with the requirements set forth in Section 6.08 of the Credit Agreement. Each Loan Party shall use its commercially reasonable efforts to cause (i) any fire and extended coverage insurance policies maintained by it with respect to any Collateral to be endorsed or otherwise amended to include a lenders' loss payable clause in favor of the Collateral Agent, (ii) any commercial general liability insurance policy maintained by it to be endorsed to name the Collateral Agent as an additional insured and (iii) each such policy to provide that it shall not be canceled, modified or not renewed except upon not less than 10 days' prior written notice thereof by the insurer to the Collateral Agent. Each Loan Party irrevocably makes, constitutes and appoints the Collateral Agent (and all officers, employees or agents designated by the Collateral Agent) as such Loan Party's true and lawful agent (and attorney-in-fact) for the purpose, during the continuance of an Event of Default, of making, settling and adjusting claims in respect of Article 9 Collateral under policies of insurance, endorsing the name of such Loan Party on any check, draft, instrument or other item of payment for the proceeds of such policies of insurance and for making all determinations and decisions necessary with respect thereto. In the event that any Loan Party at any time or times shall fail to obtain or maintain any of the policies of insurance required hereby or to pay any premium in whole or part relating thereto, the Collateral Agent may, without waiving or releasing any obligation or liability of the Loan Parties hereunder or any Event of Default, in its sole discretion, obtain and maintain such policies of insurance and pay such premium and take any other actions with respect thereto as the Collateral Agent deems advisable. All sums disbursed by the Collateral Agent in connection with this paragraph, including reasonable out-of-pocket attorneys' fees, court costs, expenses and other charges relating thereto, shall be payable, upon demand, by the Loan Parties to the Collateral Agent and shall be additional Obligations secured hereby.

(k) Each Loan Party shall maintain customary and prudent records of its Chattel Paper and its books, records and documents evidencing or pertaining thereto.

SECTION 4.04. *Other Actions*. In order to further insure the attachment, perfection and priority of, and the ability of the Collateral Agent to enforce, the Security Interest, each Loan Party agrees, in each case at such Loan Party's own expense, to take the following actions with respect to the following Article 9 Collateral:

(a) *Instruments*. If any Loan Party shall at any time hold or acquire any Instruments, such Loan Party shall promptly endorse, assign and deliver the same to the Collateral Agent, accompanied by such undated instruments of endorsement, transfer or assignment duly executed in blank as the Collateral Agent may from time to time reasonably request.

(b) *Deposit Accounts*. For each deposit account that any Loan Party at any time opens or maintains, such Loan Party shall, either (i) cause the depositary bank to agree to comply with instructions from the Collateral Agent to such depositary bank directing the disposition of funds from time to time credited to such deposit account, without further consent of such Loan Party or any other Person, pursuant to an agreement reasonably satisfactory to the Collateral Agent, or (ii) arrange for the Collateral Agent to become the customer of the depositary bank with respect to the deposit account, with the Loan Party being permitted, only with the consent of the Collateral Agent, to exercise rights to withdraw funds from such deposit account. The Collateral Agent agrees with each Loan Party that the Collateral Agent shall not give any such instructions or withhold any withdrawal rights from any Loan Party unless an Event of Default has occurred and is continuing, or, after giving effect to any withdrawal would occur. The provisions of this paragraph shall not apply to (A) any deposit account for which any Loan Party, the depositary bank and the Collateral Agent have entered into a cash collateral agreement specially negotiated among such Loan Party, the depositary bank and the Collateral Agent for the specific purpose set forth therein, (B) deposit accounts for which the Collateral Agent is the depositary bank and (C) any deposit account the average daily balance in which does not exceed $1,000,000 for any such account individually, and $5,000,000 for all such accounts in the aggregate, at any time. Notwithstanding the foregoing, at any time when a Permitted ABL Facility shall be in effect, the foregoing requirements shall be deemed satisfied with respect to any deposit account if the institution serving as collateral agent for such Permitted ABL Facility shall have control over such deposit account, for the benefit of the lenders under the Permitted ABL Facility and as bailee for the Collateral Agent, pursuant to an agreement reasonably satisfactory to the Collateral Agent and entered into by the Collateral Agent, the collateral agent for the Permitted ABL Facility and the applicable depository institution, which agreement shall provide for the transfer of control over such deposit account to the Collateral Agent upon the termination of the Permitted ABL Facility and the repayment and discharge of all loans and other extensions of credit thereunder.

(c) *Investment Property*. Except to the extent otherwise provided in Article III, if any Loan Party shall at any time hold or acquire any certificated securities of a Subsidiary, such Loan Party shall forthwith endorse, assign and deliver the same to the Collateral Agent, accompanied by such undated instruments of transfer or assignment duly executed in blank as the Collateral Agent may from time to time specify. If any securities of a Subsidiary now or hereafter acquired by any Loan Party are uncertificated and are issued to such Loan Party or its nominee directly by the issuer thereof, such Loan Party shall immediately notify the Collateral Agent thereof and, at the Collateral Agent's reasonable request and option, pursuant to an agreement in form and substance reasonably satisfactory to the Collateral Agent, either (i) cause the issuer to agree to comply with instructions from the Collateral Agent as to such securities, without further consent of any Loan Party or such nominee, or (ii) arrange for the Collateral Agent to become the registered owner of the securities. If any securities, whether certificated or uncertificated, or other Investment Property now or hereafter acquired by any Loan Party are held by such Loan Party or its nominee through a securities intermediary, such Loan Party shall immediately notify the Collateral Agent thereof and, at the Collateral Agent's request and option, pursuant to an agreement in form and substance reasonably satisfactory to the Collateral Agent, either (i) use commercially reasonable efforts to cause such securities intermediary to agree to comply with entitlement orders or other instructions from the Collateral Agent to such securities intermediary as to such security entitlements without further consent of any Loan Party or such nominee, or (ii) in the case of Financial Assets or other Investment Property held through a securities intermediary, use commercially reasonable efforts to arrange for the Collateral Agent to become the entitlement holder with respect to such Investment Property, with the Loan Party being permitted, only with the consent of the Collateral Agent, to exercise rights to withdraw or otherwise deal with such Investment Property. The Collateral Agent agrees with each of the Loan Parties that the Collateral Agent shall not give any such entitlement orders or instructions or directions to any such issuer or securities intermediary, and shall not withhold its consent to the exercise of any withdrawal or dealing rights by any Loan Party, unless an Event of Default has occurred and is continuing, or, after giving effect to any such investment and withdrawal rights would occur. The provisions of this paragraph shall not apply to (A) any Financial Assets credited to a securities account for which the Collateral Agent is the securities intermediary and (B) any securities account the value of securities or other Investment Property in which does not exceed $1,000,000 for any such account individually, and $5,000,000 for all such accounts in the aggregate, at any time.

(d) *Electronic Chattel Paper and Transferable Records.* If any Loan Party at any time holds or acquires an interest in any electronic chattel paper or any "transferable record," as that term is defined in Section 201 of the Federal Electronic Signatures in Global and National Commerce Act, or in Section 16 of the Uniform Electronic Transactions Act as in effect in any relevant jurisdiction of an amount in excess of $1,000,000, such Loan Party shall promptly notify the Collateral Agent thereof and, at the request of the Collateral Agent, shall take such action as the Collateral Agent may reasonably request to vest in the Collateral Agent control under New York UCC Section 9-105 of such electronic chattel paper or control under Section 201 of the Federal Electronic Signatures in Global and National Commerce Act or, as the case may be, Section 16 of the Uniform Electronic Transactions Act, as so in effect in such jurisdiction, of such transferable record. The Collateral Agent agrees with such Loan Party that the Collateral Agent will arrange, pursuant to procedures reasonably satisfactory to the Collateral Agent and so long as such procedures will not result in the Collateral Agent's loss of control, for the Loan Party to make alterations to the electronic chattel paper or transferable record permitted under UCC Section 9-105 or, as the case may be, Section 201 of the Federal Electronic Signatures in Global and National Commerce Act or Section 16 of the Uniform Electronic Transactions Act for a party in control to allow without loss of control, unless an Event of Default has occurred and is continuing or would occur after taking into account any action by such Loan Party with respect to such electronic chattel paper or transferable record.

(e) *Letter-of-Credit Rights*. If any Loan Party is at any time a beneficiary under a letter of credit now or hereafter issued in favor of such Loan Party in a face amount in excess of $1,000,000, such Loan Party shall promptly notify the Collateral Agent thereof and, at the request and option of the Collateral Agent, such Loan Party shall, pursuant to an agreement in form and substance reasonably satisfactory to the Collateral Agent, either (i) use commercially reasonable efforts to arrange for the issuer and any confirmer of such letter of credit to consent to an assignment to the Collateral Agent of the proceeds of any drawing under such letter of credit or (ii) use commercially reasonable efforts to arrange for the Collateral Agent to become the transferee beneficiary of such letter of credit, with the Collateral Agent agreeing, in each case, that the proceeds of any drawing under such letter of credit are to be paid to the applicable Loan Party unless an Event of Default has occurred or is continuing.

(f) *Commercial Tort Claims.* If any Loan Party shall at any time hold or acquire a commercial tort claim in an amount reasonably estimated to exceed $5,000,000, the Loan Party shall promptly notify the Collateral Agent thereof in a writing signed by such Loan Party including a description of such claim and grant to the Collateral Agent, for the benefit of the Secured Parties, in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement.

SECTION 4.05. *Covenants Regarding Patent, Trademark and Copyright Collateral*. (a) Each Loan Party agrees that it will not do any act or omit to do any act (and will exercise commercially reasonable efforts to prevent its licensees from doing any act or omitting to do any act) whereby any issued or applied for Patent that is material to the conduct of such Loan Party's business may become invalidated or dedicated to the public.

(b) Each Loan Party (either itself or through its licensees or its sublicensees) will, for each registered or applied for Trademark material to the conduct of such Loan Party's business, (i) maintain such Trademark free from any valid claim of abandonment or invalidity for non-use, (ii) maintain the quality of products and services offered under such Trademark and (iii) if registered, display such Trademark with notice of Federal or foreign registration to the extent necessary and sufficient to establish and preserve its rights under applicable Law.

(c) Each Loan Party (either itself or through its licensees or sublicensees) will, for each work covered by a material Copyright, continue to use appropriate copyright notice as necessary and sufficient to establish and preserve its rights under applicable copyright laws.

(d) Each Loan Party shall notify the Collateral Agent promptly if it knows that any issued Patent, registered Trademark or registered Copyright material to the conduct of its business is likely to become abandoned, lost or dedicated to the public, or of any materially adverse determination or development (including the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark Office, United States Copyright Office or any court or similar office of any country) regarding such Loan Party's ownership of any such Patent, Trademark or Copyright, its right to register the same, or its right to keep and maintain the same.

(e) Within 30 days of the end of any calendar quarter in which any Loan Party, either itself or through any agent, employee, licensee or designee, files an application for any Patent, Trademark or Copyright (or for the registration of any Trademark or Copyright) with the United States Patent and Trademark Office, United States Copyright Office or in any other country or any political subdivision thereof, it shall inform the Collateral Agent of such application and, upon request of the Collateral Agent, shall execute and deliver any and all agreements (including any IP Security Agreements), instruments, documents and papers as the Collateral Agent may reasonably request to evidence the Collateral Agent's security interest in such Patent, Trademark or Copyright.

(f) Each Loan Party will take steps that are consistent with its current practice and its reasonable business judgment in any proceeding before the United States Patent and Trademark Office, the United States Copyright Office or any office or agency in any political subdivision of the United States or in any other country or any political subdivision thereof, to maintain and pursue each material application relating to the Patents, Trademarks and/or Copyrights (and to obtain the relevant grant or registration) and to maintain each issued Patent and each registration of the Trademarks and Copyrights that is material to the conduct of any Loan Party's business, including timely filings of applications for renewal, affidavits of use, affidavits of incontestability and payment of maintenance fees, and, if consistent with reasonable business judgment, to initiate opposition, interference and cancelation proceedings against third parties.

(g) In the event that any Loan Party has reason to believe that any Article 9 Collateral consisting of a Patent, Trademark or Copyright material to the conduct of any Loan Party's business has been or is about to be materially infringed, misappropriated or diluted by a third party, such Loan Party promptly shall notify the Collateral Agent and shall, if consistent with reasonable business judgment, promptly take such actions as are appropriate under the circumstances to protect such Article 9 Collateral.

(h) Upon and during the continuance of an Event of Default, each Loan Party shall use its commercially reasonable efforts to obtain all requisite consents or approvals by the licensor of each Copyright License, Patent License or Trademark License to effect the assignment of all such Loan Party's right, title and interest thereunder to the Collateral Agent or its designee, for the benefit of the Secured Parties.

ARTICLE V

Remedies

SECTION 5.01. *Remedies Upon Default*. Upon the occurrence and during the continuance of an Event of Default, each Loan Party agrees to deliver, on demand, each item of Collateral to the Collateral Agent or any Person designated by the Collateral Agent, and it is agreed that the Collateral Agent shall have the right to take any of or all the following actions at the same or different times: (a) with respect to any Article 9 Collateral consisting of Intellectual Property, on demand, to cause the Security Interest to become an assignment, transfer and conveyance of any of or all such Article 9 Collateral by the applicable Loan Parties to the Collateral Agent, for the benefit of the Secured Parties, or to license or sublicense, whether general, special or otherwise, and whether on an exclusive or nonexclusive basis, any such Article 9 Collateral throughout the world on such terms and conditions and in such manner as the Collateral Agent shall determine (other than in violation of any applicable Law or then-existing licensing arrangements to the extent that waivers cannot reasonably be obtained); *provided* that in connection with any such license or sublicense of a Trademark the Collateral Agent shall endeavor to obtain a commitment from such licensee or sublicensee that any goods or services sold under such Trademark will be of comparable quality to the goods and services of the applicable Loan Party sold under such Trademark immediately prior to such Event of Default, and (b) with or without legal process and with or without prior notice or demand for performance, to take possession of the Article 9 Collateral and without liability for trespass to enter any premises where the Article 9 Collateral may be located for the purpose of taking possession of or removing the Article 9 Collateral and, generally, to exercise any and all rights afforded to a secured party under the Uniform Commercial Code or other applicable Law. Without limiting the generality of the foregoing, each Loan Party agrees that the Collateral Agent shall have the right, subject to the mandatory requirements of applicable Law, to sell or otherwise dispose of all or any part of the Collateral at a public or private sale or at any broker's board or on any securities exchange, for cash, upon credit or for future delivery as the Collateral Agent shall deem appropriate. The Collateral Agent shall be authorized at any such sale of securities (if it deems it advisable to do so) to restrict the prospective bidders or purchasers to Persons who will represent and agree that they are purchasing the Collateral for their own account for investment and not with a view to the distribution or sale thereof, and upon consummation of any such sale the Collateral Agent shall have the right to assign, transfer and deliver to the purchaser or purchasers thereof the Collateral so sold. Each such purchaser at any sale of Collateral shall hold the property sold absolutely, free from any claim or right on the part of any Loan Party, and each Loan Party hereby waives (to the extent permitted by law) all rights of redemption, stay and appraisal which such Loan Party now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted.

The Collateral Agent shall give the applicable Loan Parties at least 10 days' written notice (which each Loan Party agrees is reasonable notice within the meaning of Section 9-611 of the New York UCC or its equivalent in other jurisdictions) of the Collateral Agent's intention to make any sale of Collateral. Such notice, in the case of a public sale, shall state the time and place for such sale and, in the case of a sale at a broker's board or on a securities exchange, shall state the board or exchange at which such sale is to be made and the day on which the Collateral, or portion thereof, will first be offered for sale at such board or exchange. Any such public sale shall be held at such time or times within ordinary business hours and at such place or places as the Collateral Agent may fix and state in the notice (if any) of such sale. At any such sale, the Collateral, or portion thereof, to be sold may be sold in one lot as an entirety or in separate parcels, as the Collateral Agent may (in its sole and absolute discretion) determine. The Collateral Agent shall not be obligated to make any sale of any Collateral if it shall determine not to do so, regardless of the fact that notice of sale of such Collateral shall have been given. The Collateral Agent may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for sale, and such sale may, without further notice, be made at the time and place to which the same was so adjourned. In case any sale of all or any part of the Collateral is made on credit or for future delivery, the Collateral so sold may be retained by the Collateral Agent until the sale price is paid by the purchaser or purchasers thereof, but the Collateral Agent and the other Secured Parties shall not incur any liability in case any such purchaser or purchasers shall fail to take up and pay for the Collateral so sold and, in case of any such failure, such Collateral may be sold again upon like notice. At any public (or, to the extent permitted by law, private) sale made pursuant to this Agreement, any Secured Party may bid for or purchase, free (to the extent permitted by law) from any right of redemption, stay, valuation or appraisal on the part of any Loan Party (all said rights being also hereby waived and released to the extent permitted by law), the Collateral or any part thereof offered for sale and may make payment on account thereof by using any claim then due and payable to such Secured Party from any Loan Party as a credit against the purchase price, and such Secured Party may, upon compliance with the terms of sale, hold, retain and dispose of such property without further accountability to any Loan Party therefor. For purposes hereof, a written agreement to purchase the Collateral or any portion thereof shall be treated as a sale thereof; the Collateral Agent shall be free to carry out such sale pursuant to such agreement and no Loan Party shall be entitled to the return of the Collateral or any portion thereof subject thereto, notwithstanding the fact that after the Collateral Agent shall have entered into such an agreement all Events of Default shall have been remedied and the Obligations paid in full. As an alternative to exercising the power of sale herein conferred upon it, the Collateral Agent may proceed by a suit or suits at law or in equity to foreclose this Agreement and to sell the Collateral or any portion thereof pursuant to a judgment or decree of a court or courts having competent jurisdiction or pursuant to a proceeding by a court-appointed receiver. Any sale pursuant to the provisions of this Section 5.01 shall be deemed to conform to the commercially reasonable standards as provided in Section 9-610(b) of the New York UCC or its equivalent in other jurisdictions.

SECTION 5.02. *Application of Proceeds*. The Collateral Agent shall apply the proceeds of any collection or sale of Collateral, including any Collateral consisting of cash, as follows:

FIRST, to the payment of all costs and expenses incurred by the Collateral Agent in connection with such collection or sale or otherwise in connection with this Agreement, any other Loan Document or any of the Obligations, including all court costs and the reasonable out-of-pocket fees and expenses of its agents and legal counsel, the repayment of all advances made by the Collateral Agent hereunder or under any other Loan Document on behalf of any Loan Party and any other costs or expenses incurred in connection with the exercise of any right or remedy hereunder or under any other Loan Document;

SECOND, to the payment in full of the Obligations (the amounts so applied to be distributed among the Secured Parties pro rata in accordance with the amounts of the Obligations owed to them on the date of any such distribution); and

THIRD, to the Loan Parties, their successors or assigns, or as a court of competent jurisdiction may otherwise direct.

The Collateral Agent shall have absolute discretion as to the time of application of any such proceeds, moneys or balances in accordance with this Agreement. Upon any sale of Collateral by the Collateral Agent (including pursuant to a power of sale granted by statute or under a judicial proceeding), the receipt of the Collateral Agent or of the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Collateral so sold and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Collateral Agent or such officer or be answerable in any way for the misapplication thereof.

SECTION 5.03. *Grant of License to Use Intellectual Property*. For the purpose of enabling the Collateral Agent to exercise rights and remedies under this Agreement and solely at such time as the Collateral Agent shall be lawfully entitled to exercise such rights and remedies, each Loan Party hereby grants to the Collateral Agent an irrevocable, nonexclusive license (exercisable without payment of royalty or other compensation to the Loan Parties) to use, license or sublicense any of the Article 9 Collateral consisting of Intellectual Property now owned or hereafter acquired by such Loan Party, and wherever the same may be located, and including in such license reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer software and programs used for the compilation or printout thereof; *provided* that in connection with any such license or sublicense of a Trademark the Collateral Agent shall endeavor to obtain a commitment from such licensee or sublicensee that any goods or services sold under such Trademark will be of comparable quality to the goods and services of the applicable Loan Party sold under such Trademark immediately prior to such Event of Default. The use of such license by the Collateral Agent may be exercised, at the option of the Collateral Agent, only upon the occurrence and during the continuation of an Event of Default as part of the Collateral Agent's exercise of remedies hereunder.

SECTION 5.04. *Securities Act.* In view of the position of the Loan Parties in relation to the Pledged Collateral, or because of other current or future circumstances, a question may arise under the Securities Act of 1933, as now or hereafter in effect, or any similar statute hereafter enacted analogous in purpose or effect (such Act and any such similar statute as from time to time in effect being called the "*Federal Securities Laws*") with respect to any disposition of the Pledged Collateral permitted hereunder. Each Loan Party understands that compliance with the Federal Securities Laws might very strictly limit the course of conduct of the Collateral Agent if the Collateral Agent were to attempt to dispose of all or any part of the Pledged Collateral, and might also limit the extent to which or the manner in which any subsequent transferee of any Pledged Collateral could dispose of the same. Similarly, there may be other legal restrictions or limitations affecting the Collateral Agent in any attempt to dispose of all or part of the Pledged Collateral under applicable Blue Sky or other state securities laws or similar laws analogous in purpose or effect. Each Loan Party recognizes that in light of such restrictions and limitations the Collateral Agent may, with respect to any sale of the Pledged Collateral, limit the purchasers to those who will agree, among other things, to acquire such Pledged Collateral for their own account, for investment, and not with a view to the distribution or resale thereof. Each Loan Party acknowledges and agrees that in light of such restrictions and limitations, the Collateral Agent, in its sole and absolute discretion may approach and negotiate with a single potential purchaser to effect such sale. Each Loan Party acknowledges and agrees that any such sale might result in prices and other terms less favorable to the seller than if such sale were a public sale without such restrictions. In the event of any such sale, the Collateral Agent and the other Secured Parties shall incur no responsibility or liability for a sale of all or any part of the Pledged Collateral at a price that the Collateral Agent, in its sole and absolute discretion, may in good faith deem reasonable under the circumstances, notwithstanding the possibility that a substantially higher price might have been realized if more than a single purchaser were approached. The provisions of this Section 5.04 will apply notwithstanding the existence of a public or private market upon which the quotations or sales prices may exceed substantially the price at which the Collateral Agent sells.

SECTION 5.05. *Registration.* Each Loan Party agrees that, upon the occurrence and during the continuance of an Event of Default, if for any reason the Collateral Agent desires to sell any of the Pledged Collateral at a public sale, it will, at any time and from time to time, upon the written request of the Collateral Agent, use commercially reasonable efforts to take or to cause the issuer of such Pledged Collateral to take such action and prepare, distribute and/or file such documents, as are required or advisable in the reasonable opinion of counsel for the Collateral Agent to permit the public sale of such Pledged Collateral. Each Loan Party further agrees, upon such written request referred to above, to use commercially reasonable efforts to qualify, file or register, or cause the issuer of such Pledged Collateral to qualify, file or register, any of the Pledged Collateral under the Blue Sky or other securities laws of such states as may be reasonably requested by the Collateral Agent and keep effective, or cause to be kept effective, all such qualifications, filings or registrations. Each Loan Party will bear all costs and expenses of carrying out its obligations under this Section 5.05. Each Loan Party acknowledges that there is no adequate remedy at law for failure by it to comply with the provisions of this Section 5.05 and that such failure would not be adequately compensable in damages, and therefore agrees that its agreements contained in this Section 5.05 may be specifically enforced.

ARTICLE VI

Indemnity, Subrogation and Subordination

SECTION 6.01. *Indemnity and Subrogation*. In addition to all such rights of indemnity and subrogation as the Loan Parties may have under applicable Law (but subject to Section 6.03), the Borrower agrees that (a) in the event a payment of an Obligation of the Borrower shall be made by any other Subsidiary Loan Party under this Agreement, the Borrower shall indemnify such Subsidiary Loan Party for the full amount of such payment and such Subsidiary Loan Party shall be subrogated to the rights of the Person to whom such payment shall have been made to the extent of such payment and (b) in the event any assets of any Subsidiary Loan Party shall be sold pursuant to this Agreement or any other Security Document to satisfy in whole or in part an obligation of the Borrower owed to any Secured Party, the Borrower shall indemnify such Subsidiary Loan Party in an amount equal to the greater of the book value or the fair market value of the assets so sold.

SECTION 6.02. *Contribution and Subrogation*. Each Subsidiary Loan Party (a "*Contributing Party*") agrees (subject to Section 6.03) that, in the event a payment shall be made by any other Subsidiary Loan Party hereunder in respect of any Obligation or assets of any other Subsidiary Loan Party shall be sold pursuant to any Security Document to satisfy any Obligation (other, in each case, than an Obligation for the incurrence of which such other Subsidiary Loan Party received fair and adequate consideration) and such other Subsidiary Loan Party (the "*Claiming Party*") shall not have been fully indemnified by the Borrower as provided in Section 6.01, the Contributing Party shall indemnify the Claiming Party in an amount equal to the amount of such payment or the greater of the book value or the fair market value of such assets, as the case may be, in each case multiplied by a fraction of which the numerator shall be the net worth of the Contributing Party on the date hereof and the denominator shall be the aggregate net worth of all the Subsidiary Loan Parties on the date hereof (or, in the case of any Subsidiary Loan Party becoming a party hereto pursuant to Section 7.14, the date of the supplement hereto executed and delivered by such Subsidiary Loan Party). Any Contributing Party making any payment to a Claiming Party pursuant to this Section 6.02 shall be subrogated to the rights of such Claiming Party under Section 6.01 to the extent of such payment.

SECTION 6.03. *Subordination*. (a) Notwithstanding any provision of this Agreement to the contrary, all rights of the Loan Parties under Sections 6.01 and 6.02 and all other rights of indemnity, contribution or subrogation under applicable Law or otherwise shall be fully subordinated to the indefeasible payment in full in cash of the Obligations. No failure on the part of the Borrower or other Loan Party to make the payments required by Sections 6.01 and 6.02 (or any other payments required under applicable Law or otherwise) shall in any respect limit the obligations and liabilities of any Loan Party with respect to its Obligations hereunder, and each Loan Party shall remain liable for the full amount of the Obligations of such Loan Party hereunder.

(b) Each Loan Party hereby agrees that all Indebtedness and other monetary obligations owed by it to any other Loan Party or any other Subsidiary shall be fully subordinated to the indefeasible payment in full in cash of the Obligations.

ARTICLE VII

Miscellaneous

SECTION 7.01. *Notices*. All communications and notices hereunder shall (except as otherwise expressly permitted herein) be in writing and given as provided in Section 10.02 of the Credit Agreement. All communications and notices hereunder to any Subsidiary Loan Party shall be given to it in care of the Borrower as provided in Section 10.02 of the Credit Agreement.

SECTION 7.02. *Waivers; Amendment*. (a) No failure or delay by the Collateral Agent, any other Agent, any LC Issuer or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Collateral Agent and the other Secured Parties hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by any Loan Party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section 7.02, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Collateral Agent, any other Agent, any Arranger, any Lender or any LC Issuer may have had notice or knowledge of such Default at the time. No notice or demand on any Loan Party in any case shall entitle any Loan Party to any other or further notice or demand in similar or other circumstances.

(b) Neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Required Lenders and the Loan Party or Loan Parties with respect to which such waiver, amendment or modification is to apply, and acknowledged by the Administrative Agent, subject to any consent required in accordance with Section 10.01 of the Credit Agreement and the other terms of such Section.

SECTION 7.03. *Collateral Agent's Fees and Expenses; Indemnification*. (a) The parties hereto agree that the Collateral Agent shall be entitled to reimbursement of its expenses incurred hereunder as provided in Section 10.04(a) of the Credit Agreement.

(b) Without limitation of its indemnification obligations under the other Loan Documents, each Loan Party jointly and severally agrees to defend (subject to Indemnitees' selection of counsel), indemnify, pay and hold harmless the Collateral Agent and the other Indemnitees (as defined in Section 10.04(b) of the Credit Agreement) from and against any and all Indemnified Liabilities; *provided* that no Loan Party shall have any obligation to any Indemnitee hereunder with respect to any Indemnified Liability to the extent such Indemnified Liability arises from the gross negligence or wilful misconduct of such Indemnitee. To the extent permitted by applicable Law, no Loan Party shall assert, and each Loan Party hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) (whether or not the claim therefor is based on contract, tort or duty imposed by any applicable legal requirement) arising out of, in connection with, as a result of, or in any way related to, this Agreement or any other Loan Document, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof or any act or omission or event occurring in connection therewith, and each Loan Party hereby waives, releases and agrees not to sue upon any such claim or any such damages, whether or not accrued and whether or not known or suspected to exist in its favor.

(c) Any such amounts payable as provided hereunder shall be additional Obligations secured hereby and by the other Security Documents. The provisions of this Section 7.03 shall remain in full force and effect regardless of the termination of this Agreement or any other Loan Document, the consummation of the transactions contemplated hereby, the repayment of any of the Obligations, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, or any investigation made by or on behalf of the Collateral Agent or any other Secured Party. All amounts due under this Section 7.03 shall be payable promptly after written demand therefor.

SECTION 7.04. *Successors and Assigns*. Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the permitted successors and assigns of such party; and all covenants, promises and agreements by or on behalf of any Loan Party or the Collateral Agent that are contained in this Agreement shall bind and inure to the benefit of their respective successors and assigns.

SECTION 7.05. *Survival of Agreement*. All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments prepared or delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the Lenders and the LC Issuers and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by or on behalf of any Lender or any LC Issuer and notwithstanding that the Collateral Agent, any LC Issuer or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended under the Credit Agreement, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under any Loan Document is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or terminated.

SECTION 7.06. *Counterparts; Effectiveness; Several Agreement*. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original but all of which when taken together shall constitute a single contract. Delivery of an executed signature page to this Agreement by facsimile transmission or electronic transmission (pdf) shall be as effective as delivery of a manually signed counterpart of this Agreement. This Agreement shall become effective as to any Loan Party when a counterpart hereof executed on behalf of such Loan Party shall have been delivered to the Collateral Agent and a counterpart hereof shall have been executed on behalf of the Collateral Agent, and thereafter shall be binding upon such Loan Party and the Collateral Agent and their respective permitted successors and assigns, and shall inure to the benefit of such Loan Party, the Collateral Agent and the other Secured Parties and their respective successors and assigns, except that no Loan Party shall have the right to assign or transfer its rights or obligations hereunder or any interest herein or in the Collateral (and any such assignment or transfer shall be void) except as expressly contemplated by this Agreement or the Credit Agreement. This Agreement shall be construed as a separate agreement with respect to each Loan Party and may be amended, modified, supplemented, waived or released with respect to any Loan Party without the approval of any other Loan Party and without affecting the obligations of any other Loan Party hereunder.

SECTION 7.07. *Severability*. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction. The parties hereto shall endeavor in good faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

SECTION 7.08. *Right of Set-Off*. If an Event of Default shall have occurred and be continuing, each Agent, each Lender, each LC Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other obligations at any time owing by such Agent, such Lender, such LC Issuer or such Affiliate to or for the credit or the account of any Loan Party against any of and all the Obligations of such Loan Party now or hereafter existing under this Agreement owed to such Agent, such Lender or such LC Issuer, irrespective of whether or not such Agent, such Lender or such LC Issuer shall have made any demand under this Agreement and although such obligations may be unmatured. The rights of each Agent, each Lender, each LC Issuer and its Affiliates under this Section 7.08 are in addition to other rights and remedies (including other rights of set-off) which such Person may have.

SECTION 7.09. *Governing Law; Jurisdiction; Consent to Service of Process*. (a) This Agreement shall be construed in accordance with and governed by the law of the State of New York.

(b) Each of the Loan Parties hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any other Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or any other Loan Document shall affect any right that the Collateral Agent, any LC Issuer or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against any Loan Party, or its properties in the courts of any jurisdiction.

(c) Each of the Loan Parties hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section 7.09. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 7.01. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 7.10. *WAIVER OF JURY TRIAL*. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 7.10.

SECTION 7.11. *Headings*. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

SECTION 7.12. *Security Interest Absolute*. All rights of the Collateral Agent hereunder, the Security Interest, the grant of a security interest in the Pledged Collateral and all obligations of each Loan Party hereunder shall be absolute and unconditional irrespective of (a) any lack of validity or enforceability of the Credit Agreement, any other Loan Document, any agreement with respect to any of the Obligations or any other agreement or instrument relating to any of the foregoing, (b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Obligations, or any other amendment or waiver of or any consent to any departure from the Credit Agreement, any other Loan Document or any other agreement or instrument, (c) any exchange, release or non-perfection of any Lien on other collateral, or any release or amendment or waiver of or consent under or departure from any guarantee, securing or guaranteeing all or any of the Obligations, or (d) any other circumstance that might otherwise constitute a defense available to, or a discharge of, any Loan Party in respect of the Obligations or this Agreement.

SECTION 7.13. *Termination or Release*. (a) This Agreement, the Guarantees made herein, the Security Interest and all other security interests granted hereby shall terminate when all the Obligations (other than, with respect to the termination of the Security Interest and all other security interests granted hereby only, any Obligations that consist solely of contingent obligations) have been indefeasibly paid in full, all Commitments under the Credit Agreement shall have been reduced to zero, no LC Issuer shall have any obligation to issue Letters of Credit under the Credit Agreement and no Letter of Credit shall be outstanding (other than any Letter of Credit the obligations under which have been cash collateralized in full or supported by letters of credit of other banks naming the applicable LC Issuer as the beneficiary, in each case, in a manner satisfactory to the applicable LC Issuer). In connection with any termination pursuant to this paragraph, the Collateral Agent shall execute and deliver to any Loan Party, at such Loan Party's expense, all Uniform Commercial Code termination statements and any other documents that such Loan Party shall reasonably request to evidence such termination. Any execution and delivery of documents pursuant to this Section 7.13 shall be without recourse to, or representation of warranty by, the Collateral Agent or any other Secured Party.

(b) Release of any Subsidiary Loan Party from its obligations hereunder and of the Security Interest in any Collateral shall be governed by Section 9.08(a) of the Credit Agreement.

SECTION 7.14. *Additional Subsidiaries*. Pursuant to Section 6.13(c) of the Credit Agreement, certain subsidiaries not originally parties hereto may be required from time to time to enter in this Agreement as Subsidiary Loan Parties. Upon execution and delivery by the Collateral Agent and a Subsidiary of an instrument in the form of Exhibit I hereto, such Subsidiary shall become a Subsidiary Loan Party hereunder with the same force and effect as if originally named as a Subsidiary Loan Party herein. The execution and delivery of any such instrument shall not require the consent of any other Loan Party hereunder. The rights and obligations of each Loan Party hereunder shall remain in full force and effect notwithstanding the addition of any new Loan Party as a party to this Agreement.

SECTION 7.15. *Collateral Agent Appointed Attorney-in-Fact*. Each Loan Party hereby appoints the Collateral Agent the attorney-in-fact of such Loan Party for the purpose of carrying out the provisions of this Agreement and taking any action and executing any instrument that the Collateral Agent may deem necessary or advisable to accomplish the purposes hereof, which appointment is irrevocable and coupled with an interest. Without limiting the generality of the foregoing, the Collateral Agent shall have the right, but only upon the occurrence and during the continuance of an Event of Default, with full power of substitution either in the Collateral Agent's name or in the name of such Loan Party (a) to receive, endorse, assign and/or deliver any and all notes, acceptances, checks, drafts, money orders or other evidences of payment relating to the Collateral or any part thereof; (b) to demand, collect, receive payment of, give receipt for and give discharges and releases of all or any of the Collateral; (c) to sign the name of any Loan Party on any invoice or bill of lading relating to any of the Collateral; (d) to send verifications of Accounts Receivable to any Account Debtor; (e) to commence and prosecute any and all suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect or otherwise realize on all or any of the Collateral or to enforce any rights in respect of any Collateral; (f) to settle, compromise, compound, adjust or defend any actions, suits or proceedings relating to all or any of the Collateral; (g) to notify, or to require any Loan Party to notify, Account Debtors to make payment directly to the Collateral Agent; and (h) to use, sell, assign, transfer, pledge, make any agreement with respect to or otherwise deal with all or any of the Collateral, and to do all other acts and things necessary to carry out the purposes of this Agreement, as fully and completely as though the Collateral Agent were the absolute owner of the Collateral for all purposes; *provided* that nothing herein contained shall be construed as requiring or obligating the Collateral Agent to make any commitment or to make any inquiry as to the nature or sufficiency of any payment received by the Collateral Agent, or to present or file any claim or notice, or to take any action with respect to the Collateral or any part thereof or the moneys due or to become due in respect thereof or any property covered thereby. The Collateral Agent and the other Secured Parties shall be accountable only for amounts actually received as a result of the exercise of the powers granted to them herein, and neither they nor their officers, directors, employees or agents shall be responsible to any Loan Party for any act or failure to act hereunder, except for their own gross negligence, bad faith or wilful misconduct.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

SPECTRUM BRANDS, INC., as the Borrower

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Executive Vice President and Chief Financial Officer

SPECTRUM BRANDS, INC., as the Borrower

By: /s/ James T. Lucke

Name: James T. Lucke
Title: Senior Vice President, Secretary and General Counsel

ROVCAL, INC., as a Subsidiary Loan Party

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President and Treasurer

ROV HOLDING, INC., as a Subsidiary Loan Party

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President

TETRA HOLDING (US), INC., as a Subsidiary Loan Party

By: /s/ Randall J. Steward

Name: James T. Lucke
Title: Assistant Secretary

UNITED INDUSTRIES CORPORATION, as a Subsidiary Loan Party

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Executive Vice President, Treasurer and Chief Financial Officer

SCHULTZ COMPANY, as a Subsidiary Loan Party

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Officer

SPECTRUM NEPTUNE US HOLDCO CORPORATION, as a Subsidiary Loan Party

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Officer

UNITED PET GROUP, INC., as a Subsidiary Loan Party

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Officer

DB ONLINE, LLC, as a Subsidiary Loan Party
By: United Pet Group, Inc., Its Sole Member

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Officer

AQUARIA, INC., as a Subsidiary Loan Party

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Officer

SOUTHERN CALIFORNIA FOAM, INC., as a Subsidiary Loan Party

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Officer

PERFECTO MANUFACTURING, INC., as a Subsidiary Loan Party

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Officer

AQUARIUM SYSTEMS, INC., as a Subsidiary Loan Party

By: /s/ Randall J. Steward

Name: Randall J. Steward
Title: Vice President, Treasurer and Chief Financial Office

GOLDMAN SACHS CREDIT PARTNERS, L.P., as the Collateral Agent

By: /s/ Walter A. Jackson

Name: Walter A. Jackson
Title: Authorized Signatory